

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

KEITH JONSSON, an individual; MICHAEL)
JONSSON, an individual; CEDAR VALLEY)
FUR FARM, LLC, a Utah limited liability)
company,)
Plaintiffs,)
vs.) Case No.
NATIONAL FEEDS, INC., an Ohio) 2:11-CV-140-BSJ
corporation, RANGEN, INC., an Idaho)
corporation,)
Defendants.)
_____)

BEFORE THE HONORABLE BRUCE S. JENKINS

January 13, 2014

Jury Trial

REPORTED BY: Patti Walker, CSR, RPR, CP
350 South Main Street, #146, Salt Lake City, Utah 84101

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A P P E A R A N C E S

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I N D E X

Witness	Examination By	PAGE
Keith Jonsson	Mr. Mercer (Direct)	39
	Mr. Minnock (Cross)	78

1 SALT LAKE CITY, UTAH; MONDAY, JANUARY 13, 2014; 9:30 A.M.

2 (Proceedings not transcribed.)

3 THE COURT: Let's go ahead, bring them in.

4 (Jury present)

5 THE COURT: Relax, folks. The record will show
6 the jury is present, counsel and the parties. As we
7 indicated early on, we're going to have an opportunity of
8 hearing what are called -- what is called an opening
9 statement from each of the parties. They are going to tell
10 what they anticipate the evidence will show.

11 Go ahead.

12 MR. HANCEY: Thank you, Your Honor.

13 Good morning, ladies and gentlemen of the jury. I
14 want to first and foremost thank you for your service. It's
15 a big commitment to be here over the next few days. We
16 appreciate you doing this. A jury trial couldn't happen
17 without you.

18 The purpose of an opening statement is to kind of
19 give you a little bit of a road map about the plaintiffs'
20 perspective of what this case is and hopefully give you a
21 preview of what we think the evidence is going to show over
22 the next few days.

23 My name is Ryan Hancey. My colleagues and I
24 represent the plaintiffs in this case. They are the ones
25 that filed the lawsuit. The clients' names are Keith

1 Jonsson, his son Michael, and their company Cedar Valley Fur
2 Farm. The plaintiffs are mink ranchers down in Utah County,
3 and, in a nutshell, this case is about dead mink. It's
4 about mink that ate poisonous feed and died. You will hear
5 all about that over the next few days.

6 You may be thinking to yourself, mink, I haven't
7 seen a mink coat since the one my grandma wore. To some
8 extent, you would be right in thinking that because the
9 industry here in the United States isn't what it used to be
10 several years ago. But, on the other hand, there is a
11 really big international market for mink and their fur, like
12 in countries of China, Russia, Japan. So a lot of the mink
13 ranchers, surprisingly, that raise mink that are exported to
14 other countries in this market actually live here in Utah
15 because the climate is ideal for raising mink. So there are
16 a lot of farmers here in Utah, a lot of them in Idaho. The
17 Jonssons have been mink ranchers in this particular industry
18 for decades, for more than 30 years.

19 So this case is about mink and it's about an
20 incident that happened back in 2010. The Jonssons at that
21 point were looking to purchase mink feed to feed to their
22 mink. They are part of something called a cooperative.
23 It's really a collection of a bunch of mink ranchers who get
24 together and they form this association. A lot of people
25 call it a co-op. And one of the things that the co-op does

1 is it manufactures its own feed. It sells it to the mink
2 ranchers. They get it for a good deal, and then they can
3 feed their mink. It's delivered to the ranchers.

4 In this particular spring, the Jonssons were
5 interested in purchasing a supplement to mix into that co-op
6 feed to feed their mink. This product is called lactation
7 crumlets. You're going to hear a lot about lactation
8 crumlets. As the name suggests, this is a product that the
9 defendant National Feeds was promoting and had designed
10 specifically to feed to mink when they're pregnant and
11 producing milk for their young. You will hear a lot of mink
12 ranching terms.

13 Baby mink are called kits. So this product was
14 touted by National Feeds as being the perfect product to
15 feed your mink when they are pregnant, and they make claims
16 like it will help your baby mink grow, it will help your
17 kits grow and develop, it will make the quality of the fur
18 really nice, it will actually help the mothers be healthy,
19 and will prevent losses.

20 It's ironic that this wonder product that's
21 supposed to do all these miraculous things and benefit the
22 mink had the complete opposite effect. It killed the mink.

23 But the Jonssons purchased this product from
24 National Feeds, the defendant. And National Feeds doesn't
25 actually make the product. They contract with another

1 company called Rangen. That's the other defendant in this
2 case. And Rangen is the company that goes out and it
3 purchased all the ingredients that were going to be -- that
4 were in accordance with National's formula. They got those
5 ingredients and mixed them all together, and out came the
6 lactation crumlets. So they made those from scratch, and
7 then they were delivered to the Jonssons.

8 The Jonssons fed them to their mink during this
9 very short time window. It's really about two months of the
10 year where mink actually are in this lactation cycle. And
11 they bought them for that purpose. They feed them to their
12 mink. And just within a few days, the mink start dying.

13 They see all kinds of health problems. Some of
14 the mother mink just died. Some of them are too weak to
15 take care of their babies and the kits die. Some kits are
16 born but they struggle, and then a few days later they die.

17 There were production issues too. The Jonssons
18 will tell you a little bit about how they averaged their
19 production for a year, but certain mother mink that were
20 expected to have, say, five babies, or a litter of five kits
21 that year only had one kit. So there were all kinds of
22 problems. Over the course of that season, the Jonssons
23 ended up losing about 6,000 mink, just slightly under that.

24 Now this is the Jonssons' right to have a jury
25 trial and this is really their only day in court, these next

1 few days here, and this is their only chance they have to be
2 compensated for the losses that they suffered back in 2010.
3 And you, the jury, get to decide that issue.

4 We look forward to presenting our case over the
5 next few days. We're going to put on our case through about
6 ten witnesses. I want to give you a brief introduction of
7 those witnesses and what we believe they are going to say
8 and what the evidence is going to show.

9 The first witness you will hear from is Mr. Keith
10 Jonsson, followed by his son Michael, and the Jonssons are
11 really going to testify about their mink ranch operation and
12 then what happened in 2010. They will tell you a little bit
13 about how their operation works. Every year is about the
14 same and has been for decades. They start the year with a
15 certain number of what we call breeders. These are the
16 female mink that have been preselected to have babies that
17 year, and then they expect those mink to have a certain
18 amount of kits that year based on historical averages. They
19 have had very consistent averages over the years, so they
20 know what to expect production-wise at the end of the
21 season.

22 Once the mink have all been born and have grown,
23 then near the end of the season they go through all of the
24 mink, however many thousands there are, and they pick out or
25 sort out the ones that have the best characteristics, the

1 best qualities, the biggest size, the fur color and quality,
2 and they hold those over to be breeders for the following
3 season. And then they harvest the rest of the mink to sell
4 at auction. They have done this, like I said, year after
5 year, and that's what they were going to do in 2010. This
6 put a big damper on their operation.

7 The Jonssons will testify about purchasing this
8 product, these lactation crumlets, and feeding it to their
9 mink in 2010, and about the problems they saw just a few
10 days later and really throughout the rest of that season, as
11 well as some problems in the subsequent years. They will
12 testify about the impact this product had on their mink
13 ranch operation.

14 Keith Jonsson will explain to you why he didn't
15 understand right away that the problem, the reason why these
16 mink were dying, was the lactation crumlets, and that's
17 because about two-thirds of his mink on his ranch were
18 eating the crumlets and they weren't having any real issues.
19 He only found out much later, through some scientific
20 investigation and so forth, that the mink that were affected
21 by the crumlets were the ones that were pregnant at the time
22 they were eating it, whereas the ones that had already
23 delivered their litters and then started eating the product
24 didn't have the problems. That wasn't discovered until much
25 later.

1 Keith and Michael will testify that they own two
2 mink ranches. One is in Lehi and there's a second one in
3 Cedar Valley, which is about 15 miles to the west of that.
4 And on the ranch in Lehi, they fed the crumlets to the mink.
5 They ordered the 12,000 pounds of lactation crumlets. They
6 have a mixing facility there. They mixed the crumlets into
7 the feed that they get from the co-op, the regular mink
8 feed, and they fed it to their mink, and those mink had
9 problems. On the other hand, the Cedar Valley mink, just
10 15 miles to the west, didn't eat any crumlets. They were
11 only fed straight co-op feed, no problems, healthy mink.

12 After you hear from the Jonssons, you're going to
13 hear from some fellow mink ranchers named Kent and Roger
14 Griffeth. The Griffeths own mink ranches up in southern
15 Idaho, and they have been mink ranching for about 30 years
16 as well. They are members of the same co-op as the
17 Jonssons.

18 Kent Griffeth will testify that in the spring of
19 2010 he contacted Keith Jonsson, and his father Roger, who
20 owns a separate mink ranch, and said, basically, what do you
21 think about splitting in on the cost of some lactation
22 crumlets to save on shipping costs. Everybody agreed. So
23 Kent placed the order with National Feeds. The crumlets
24 were delivered to his ranch. And then Roger picked up his
25 share, took them to his ranch. The Jonssons took their

1 share, took them down to Lehi. And everybody fed the
2 crumlets to their own mink.

3 Kent Griffeth will testify that just a few days
4 after feeding the crumlets to his mink, he observed the same
5 kinds of problems that the Jonssons are going to tell you
6 about. And the same thing happened with Roger. He feeds
7 his share of the crumlets, from the very same batch that
8 Rangen mixed and that National sold, to his mink, same
9 problems.

10 So really what you're going to hear from the first
11 four witnesses is an account of four mink ranches, two are
12 in Utah owned by the Jonssons, two were in Idaho owned by
13 the Griffeths. On three of those ranches, the mink were fed
14 a mixture of co-op feed and crumlets and had all kinds of
15 problems. On the fourth ranch, that's in Cedar Valley, the
16 mink were fed only co-op feed, and no health problems.

17 After that, you're going to hear from an expert
18 witness named Dr. Jeffery Hall. Now he is a veterinarian,
19 so he knows a lot about animals, including mink, and he's
20 also a toxicologist, which means he is very familiar with
21 poisonous substances, and specifically how they affect
22 animals, including mink. He's going to testify that he sent
23 some samples of the lactation crumlets to independent
24 laboratories for testing. The test results came back. He
25 looked at those and he determined that there are two

1 poisonous substances in the crumlets that are called
2 nitrosamines and histamines. He'll explain to you what
3 those are.

4 Nitrosamines, he will tell you, are a chemical
5 compound that forms from something called nitrites. As it
6 turns out, nitrites are a preservative that's used in
7 fishmeal, which is the main ingredient in lactation
8 crumlets. He will tell you that nitrosamines are extremely
9 poisonous to mink. They are so poisonous, he will say, that
10 they should never be used as a preservative in an ingredient
11 that's going to be put into mink feed. He will say, in
12 fact, they are so toxic to mink that they shouldn't even be
13 used in the same facility that manufactures mink feed. But
14 here it is in the lactation crumlets. Dr. Hall will explain
15 that histamines are a common contaminant that's found in
16 fishmeal due to improper handling, and both of those
17 substances were found in the crumlets.

18 He will explain to you that mink are one of the
19 very most sensitive species known to man, to toxic
20 substances. They just don't have very strong compositions,
21 and they get affected by things, and that's nonpregnant
22 mink. He will tell you that pregnant mink, like the ones
23 that were targeted for this particular product and ate the
24 crumlets, are much more sensitive than nonpregnant mink. It
25 will be his expert opinion that the lactation crumlets that

1 National sold and Rangen made are the substance that caused
2 the Jonssons losses and killed their mink.

3 After that, we're going to call some
4 representatives from the defendants themselves. I think you
5 are going to be a little surprised by their testimony.
6 We're going to call two representatives from National Feeds,
7 the company president, Ed Buschur, and the company
8 nutritionist named Dre Sanders. We're also going to call
9 two representatives from Rangen, Joy Kinyon and David Brock,
10 the nutritionist. Kinyon is the supervisor.

11 The National people are going to say that they are
12 in the business of selling mink feed and specifically this
13 product for pregnant mink, and that they don't do anything
14 to ensure that nitrosamines and histamines aren't in their
15 products. They don't test for those substances. They don't
16 require Rangen to test for those substances. They don't
17 even know what suppliers Rangen uses to purchase ingredients
18 from. National just basically says, you go out and buy the
19 ingredients that are in accordance with our formula from
20 whatever sources you want. And there are no safeguards in
21 place to prevent this sort of thing from happening.

22 It would maybe okay that National doesn't know who
23 Rangen's suppliers are if National was telling Rangen,
24 whatever you do, make sure you are not buying ingredients
25 that have nitrites in them. Make sure that proper handling

1 techniques have been used so there aren't histamines in the
2 products that you're buying. That conversation didn't
3 happen. Those instructions weren't given. Rangen bought
4 whatever it wanted, and National had no supervision over
5 that.

6 The Rangen people are in the business of making
7 the feed for pregnant mink and their own nutritionist will
8 tell you that he knows nothing about mink nutrition and he
9 knows nothing about substances that might be harmful to
10 mink. The nutritionist for National, the company selling
11 the product, and he's the one in charge of formulating all
12 of these products, including the lactation crumlets, will
13 tell you in 2010 he knew nothing about histamines, he didn't
14 know about nitrosamines, or if he did, he did nothing to
15 determine whether or not Rangen was buying products that had
16 those things in them.

17 Our last witness will be Dr. Wade Roberts. Now
18 he's an economist, and he will tell you that he has looked
19 at ten years of data from the Jonssons, he has interviewed
20 people in the case, and he's used economic principles to
21 calculate the Jonssons' losses. He will tell you how he
22 arrived at that calculation. He will explain to you why the
23 Jonssons' damages are more complicated than just taking the
24 number of dead mink and times'g that by how much a
25 replacement mink costs. He will explain to you that there

1 are long-term effects to the Jonssons' herds as well as
2 short-term effects.

3 He will talk to you about damages related to the
4 mother mink that died, the breeders, and the ones that the
5 Jonsson had to go outside to other sources to purchase to
6 bring in to replace the ones that died or that weren't
7 producing any more. He will talk to you about damages
8 relating to the kits that died, were never expected to be
9 born based on historical numbers, and weren't born. And he
10 will explain to you about damages related to the quality of
11 the mink fur of the mink that actually did survive and were
12 sold at auction for less than what would have been expected.

13 At the end of the day, Dr. Roberts will explain to
14 you that his damages calculation for the Jonssons is almost
15 \$3.4 million. He'll explain to why that's a very
16 conservative number and leaves a lot of things out.

17 Now I know that sounds like a lot. That's why I
18 wanted to make sure that I thanked you for your jury service
19 at the beginning of this statement, but we'll be efficient.
20 I just ask that you're attentive during the next few days,
21 that you listen carefully to the evidence, and when it comes
22 time to render your verdict, you do so based on the
23 evidence.

24 I thank you again for your willingness to be here.
25 We look forward to presenting the Jonssons' case to you over

1 the next few days. Thank you very much.

2 MR. MINNOCK: Thank you, Your Honor. Can I just
3 take one second and pull this over?

4 Ladies and gentlemen of the jury, I don't want to
5 echo what Mr. Hancey said. We thank you and I know that
6 Rangen thanks you, and my client thanks you for your jury
7 service. We know it's a big imposition, it's not what you
8 hoped to be doing this week, but it's something you are
9 doing this week and we do thank you for your service.

10 I do tell you you're lucky in a couple of ways
11 that you got to be a juror on this case. One, because it's
12 very interesting. This isn't a standard automobile accident
13 or a standard drug trial. It is a mink case. It's
14 relatively interesting. You'll learn something you didn't
15 know. We've got a very experienced Judge, and the parties
16 have worked tirelessly over the last couple of months to
17 make sure we use your time efficiently. I hope that we're
18 able to do that and get you in and out of here.

19 Quickly, let me tell you what our position is on
20 the case. I'm going to walk through it a little bit, but I
21 want you to understand at the beginning what our overall
22 position is. We do not believe that the Jonssons suffered
23 any loss in 2010. I'm not simply saying we don't think they
24 suffered a loss because of the crumlets. We don't believe
25 they suffered a loss at all. In fact, the documents and the

1 numbers that their expert provided, Dr. Roberts, that
2 Mr. Hancey was talking about show, unequivocally, that they
3 had their best year ever in 2010.

4 Let me tell you why we think that, and to do that
5 you have to understand a little bit about the way that minks
6 work. As Mr. Hancey indicated, you start the year with a
7 certain number of breeders. Now one of the things that I
8 want you to put in the back of your mind because you're
9 going to see it throughout this case is that a mink ranch --
10 or mink raising operates on a calendar year, and we're going
11 to go through that calendar year. But it operates on a
12 calendar year.

13 So what will happen is you will raise a crop in
14 2009 and you will sell it in 2010. You will raise a crop in
15 2010 and you will sell it in 2011. So, for instance, when
16 we're talking about the 2010 crop year, we're talking about
17 the mink that were sold in 2011.

18 Let me show you -- and this is based on numbers
19 that Michael Jonsson prepared and that Wade Roberts
20 prepared. This isn't any document and any numbers that I
21 prepared or that Rangen prepared.

22 In 2009, we have two different sources of data on
23 how many breeders they started with. According to documents
24 that the Jonssons gave us, they started with 9,000 female
25 breeders -- 9,000 female breeders. According to their

1 expert, Wade Roberts, he said they actually had 7600
2 breeders. The next year, in 2010, based on these breeders,
3 they sold 29,861 mink. The following year, 2010, the year
4 we're talking about, according to the Jonssons, they had
5 8,000 mink. According to Dr. Roberts, they had 7600
6 breeders. So they either went down a thousand or up 300
7 breeders. They sold 36,520 mink. They sold 6,000 more mink
8 the year after they ate the lactation crumlets than the year
9 they did before.

10 There is no loss here, ladies and gentlemen, we
11 believe the evidence will show. But let me go a step
12 further.

13 We took the Jonssons' depositions early in the
14 case, and we said what happened, tell us what happened.
15 Both of them were very specific that the problem -- and
16 Mr. Hancey alluded to this in his opening statement -- was
17 that most of the mink had already had their babies. They
18 said the ones that were at the very end were the ones that
19 had problems, and they were all black mink. We're talking
20 about a subgroup called black kit breeders, which means
21 black mink as opposed to mahogany. And by kit breeders, we
22 mean that they were born the year before and they were kept
23 over. Black kit breeders, those were the ones that ate the
24 lactation crumlets and were allegedly poisoned.

25 Dr. Roberts looked at the Jonssons' historical

1 averages of black mink and here's what he found. Four years
2 before this, they averaged 2.75 black mink. Three years
3 before this, 2.62 black mink. Two years before this, 3.21.
4 The year before this, 3.20. The year that they ate the
5 lactation crumlets, the one that the Jonssons are claiming
6 the loss for, 3.72 among their black breeders, the ones that
7 they claim were poisoned. The ones that they claim were
8 poisoned had a higher kit average than in any year in the
9 preceding five years.

10 Now in closing statement, Mr. Mitchell and I are
11 going to go through -- there's a lot of ways you can detect
12 a loss, not simply looking at these numbers, but looking at
13 some other things in terms of what goes into raising mink.
14 We're going to show you that no matter how you measure it,
15 there is no loss in 2010. It is their best year ever. It's
16 their best year ever.

17 Now there is something else that you have to keep
18 in mind about this case that we think indicates that they
19 didn't suffer a loss. The Jonssons, as Mr. Hancey
20 indicated, are members of the Fur Breeders Agricultural
21 Co-op. You're probably going to hear it referred to as FBAC
22 as we go along. Fur Breeders Agricultural Co-op, it's all
23 the fur breeders.

24 The fur breeders co-op actually retains a
25 veterinarian on-site. He's available to all the ranchers.

1 We're going to show you the Jonssons' records from the years
2 before this where they are calling Dr. Johnson if they're
3 suffering losses in the teens. If they're suffering more
4 than ten or 20 mink losses, they are calling Dr. Johnson
5 saying, come out and help us understand what's going on with
6 our mink.

7 The records and the evidence will show you that
8 there is no veterinary call during the entire time that
9 these mink are eating these crumlets. There is no
10 veterinary call the month after they stopped, the month
11 after that, or the month after that. It is two and a half
12 months after these mink stopped eating the lactation
13 crumlets is the first time that a vet is ever consulted. We
14 believe that's evidence that there was no loss suffered.

15 By the way, when that vet did show up, what he's
16 going to tell you -- he won't tell you, but Dr. Hall will
17 tell you this -- is that they were consulted. He got some
18 mink that had died. He sent them to Utah State to be
19 examined. They came back and they said, you know what, your
20 mink died from a virus, viral enteritis, the same thing mink
21 die from every day.

22 Here's some things you will not see in this case
23 from the plaintiffs. There is no veterinary record during
24 the first four months after they started eating the
25 crumlets. There is no record or photograph of any dead

1 mink. There is no necropsy report from any veterinarian
2 saying these died from dietary related feed. In our mind,
3 there is no loss in the year 2010.

4 Now let me take a couple of minutes, because I
5 think it will be helpful as you understand the case, to look
6 at how mink are raised. I apologize for my small chart. It
7 is what it is. We talked about how. It's on a calendar
8 year. But on this chart you can see the calendar starts
9 down here in January.

10 What the Jonssons knew -- and all the mink
11 ranchers knew this -- is you pelt out, or harvest your mink
12 during November and December of the preceding year. So for
13 these mink that were sold in 2011, they were pelted out in
14 2010, in November.

15 Then what you do is you start -- you hold for
16 breeding, you hold a certain number of mink. That's these
17 numbers here, 9,000, 8,000, 7600 or 7900. I actually made a
18 mistake here. This is 7900.

19 Then what you do is during February, you breed
20 them. You breed them. Actually, if you're a male breeder,
21 once you've fulfilled your purpose, they send you to the
22 action because you fulfilled your purpose and you're pelted
23 out. This is the point where they start feeding the
24 lactation crumlets.

25 A mink's diet is largely made up of what we call

1 offal. It's not a-w-f-u-l. It's o-f-f-a-l. Offal is the
2 by-products of when cows and pigs and chickens and things
3 like that are used for human consumption. So what you do is
4 you take that offal and the Fur Breeders Agricultural Co-op
5 mixes it together into what they call a wet mash.

6 Now it's wet, and because it's wet, that's what
7 creates part of the problem if you're a mink rancher. Wet
8 feed generates a lot of bacteria, not to mention the fact
9 that a lot of these food by-products have a lot of bacteria
10 in them to begin with. So like Mr. Hancey indicated, at
11 some point in their life, they need to have a little bit
12 better food source. One is when they are having their kits
13 and they're lactating. That's what National Feeds supplies
14 and that's why this was the first year that the Jonssons had
15 ever used this product, but the Griffeths had used it for
16 over a decade.

17 The reason why is because when you supplement that
18 wet mash feed with this pet food quality feed, it does a
19 couple of things for you. One is because it's a dry feed,
20 it doesn't have that heavy bacteria look. So the mink are
21 able to get less bacteria into their diet. The second
22 reason why it's really helpful is because it gives you a
23 balanced amino acid profile.

24 The co-op diet focuses on certain kinds of feed.
25 By adding this in, some fishes, some eggs, some milk, you

1 get different kinds of amino acids, and that's what helps
2 them. That's why ranchers like the Griffeths have sworn by
3 them for the last decade, because they do help the mink
4 during lactation.

5 You then go through the growing period. In July
6 you vaccinate the mink. You give them a vaccination. It's
7 a vaccination that's for diseases, only one of which we're
8 going to talk about, which is viral enteritis. But there
9 are no -- they get vaccinated at that point, and then they
10 grow. Then in November and December they get harvested. So
11 that's the mink year.

12 What I indicated earlier is Keith Jonsson
13 indicated that they started eating the feed on April 28th.
14 He started noticing problems on May 1st or 2nd. But, again,
15 there is no veterinary call until August the 27th.

16 THE COURT: You might give him the mike.

17 MR. MINNOCK: Let me talk a little bit about the
18 issues.

19 Let me talk just a little bit, then, about this
20 notion of these, quote, poisons in the feed.

21 The first one that we're going to talk about is
22 histamines. And Mr. Hancey is correct about histamines and
23 nitrosamines and how they are formed. They are by-products
24 of potential things that the fishmeal could be preserved
25 with, but were not preserved with in this case.

1 The fishmeal in this case was preserved with a
2 well known preservative called ethoxyquin. It's not
3 anything that contains nitrites or histamines. In fact,
4 when you look at the history of this, there are no tests of
5 this feed until December of 2010, about eight months after
6 they stopped eating the lactation crumlets. The first test
7 they did, they didn't test for nitrosamines, but they tested
8 for histamines. It was not detected, meaning it was not in
9 the feed, the first test that they did. They then sent
10 several tests, two years after the feed was consumed, and
11 they found histamines.

12 In our view, the first problem with this whole
13 poison analysis is that the first test showed no histamines
14 at all and no tests were ever done in 2010 which showed
15 either histamines or nitrosamines.

16 We think the evidence is going to show you,
17 second, that there was a guy that lived a couple of thousand
18 years ago called Paracelsus. There's a company named after
19 him now, I guess, a California health insurance company.
20 But his most famous phrase he's remembered for is the dose
21 makes the poison.

22 What the evidence is going to show you is even if
23 there were either nitrosamines or histamines in this feed,
24 they were at levels so low that no study has ever shown them
25 to be harmful to mink. In fact, when you look at

1 nitrosamines, they fed nitrosamines -- they actually
2 injected them into mink at a level of .04 to .07 parts per
3 million. Those mink had their kits fine. The next
4 generation had their kits fine. After 500 days, some of the
5 mink died from tumors -- after 500 days. These minks had it
6 for about 45 days.

7 The level of inclusion in our case is below the
8 level that's ever been shown to be harmful. The same for
9 histamines. So we don't think it was there. And if it was
10 there, the documented test results that you will see are
11 below toxic levels for mink, below toxic levels for mink.

12 Now Mr. Hancey talked about, well, you know, the
13 big problems is National Feeds' nutritionist didn't tell
14 Rangen's nutritionist that you shouldn't be including
15 nitrosamines or histamines. Well, what Rangen is going to
16 tell you is you didn't have to tell us that for a couple of
17 reasons. One is we don't use nitrite preserved fishmeal,
18 which is another reason we don't believe it was ever in this
19 feed.

20 The second reason is because mink -- Rangen is one
21 of the world's largest producers of fish food -- fish food,
22 and if there are animals more susceptible to histamines and
23 nitrosamines, it's fish. It's fish. Rangen is one of the
24 world leaders. That's why National Feeds picked Rangen is
25 because the digestive tract and the digestive abilities of

1 fish and mink, even though you wouldn't think that it would
2 be that way, it is. They both have very short digestive
3 tracts. They are very sensitive to the same kind of things.

4 So when we look at the case, we think the evidence
5 is going to show you that they didn't suffer a loss as a
6 whole. They didn't suffer a loss among the area where they
7 told us they suffered a loss. And the levels of
8 nitrosamines and histamines in this feed were so low, if
9 they were even there, that they would not be dangerous to
10 mink.

11 At the end of the case, we're going to ask you to
12 deliver a no cause of action for both National Feeds and
13 Rangen based on the data that we think you're going to see
14 from the plaintiffs themselves. Thank you again.

15 MR. MITCHELL: Ladies and gentlemen, this case is
16 about plaintiffs' claims versus reality. Plaintiffs claim
17 that the feed they fed their mink caused them millions of
18 dollars in production losses. The reality is the year they
19 fed -- the reality is the year that they fed the lactation
20 crumlets to their mink, they produced more animal sales,
21 36,520, than any other year for which we have a record, 2004
22 through 2012. This 2011 crop was born and raised in the
23 year 2010 when they fed the feed that's at issue in this
24 case.

25 Rangen is a feed mill located in a small town in

1 southern Idaho called Buhl, about an hour north of Utah.
2 They have been in the feed making business since 1925.
3 They've been making livestock feed since then. They have
4 been making fish and similar kinds of feed since 1950. They
5 also do work for other companies such as National as a toll
6 miller. That is they make feed for other companies that
7 turn around and then sell that feed under their own labels,
8 such as National, kind of in the way that Maytag will make
9 washers for Sears who then sells it under their Kenmore
10 name.

11 As a toll miller, when it's making feed for other
12 companies, Rangen uses the same processes, the same care
13 that it uses when it makes its own feed. So, in other
14 words, the ingredients that go into the feed that Rangen
15 makes for National, Rangen uses those ingredients in its own
16 feed. That's what gets used in National's feed.

17 When the formula that National uses and gives to
18 Rangen to make mink feed calls for sardine meal, Rangen uses
19 the same sardine meal to make that feed that it uses to make
20 its own fish feed. It uses the same equipment. It uses the
21 same processes. It's as if it -- it makes the feed the way
22 that it would want to make feed if it were going to sell it.

23 Rangen has been doing this for National, or
24 National's predecessor, since about 2004, and continues to
25 make feed for National to this day.

1 Now when mink ranchers order feed from National,
2 they usually don't order enough for a complete run of feed.
3 So National will send over several orders together so that
4 Rangen can go through and do the complete run. That can
5 happen in stages just because of the way the production
6 occurs in Rangen's plant. But it, nevertheless, gets sent
7 over to be run as a bulk feed, which then gets sacked or
8 shipped as needed.

9 Now the mink feed that Rangen makes for National
10 is similar enough -- it's actually very similar to the fish
11 feed that Rangen makes. So they make both the mink feed and
12 the fish feed in the aquaculture division. David Brock is
13 the nutritionist for Rangen in its aquaculture division. He
14 basically oversees the whole operation.

15 Now when an order comes in, as it did in this
16 case, or in this case several orders -- as you heard, Kent
17 Griffeth got together with the Jonssons and convinced them
18 to order the lactation crumlets -- the order gets placed
19 with National. In this case that happened on March 15th of
20 2010. National then sends the order over to Rangen. That
21 happened the same day in this case.

22 Rangen then takes a look at the orders that come
23 in, figures out what kind of feed it's going to have to
24 make, and begins its production process. It does that in a
25 couple of ways. One, it gets the runs scheduled into the --

1 into its production schedule, and then it also takes a look
2 at the formulas, takes a look at the ingredients, makes sure
3 that it has enough of the ingredients that it supplies on
4 hand and any ingredients that the company that it's
5 manufacturing the feed for are on hand as well.

6 Rangen has been in the business of making feed for
7 so long that its quality control processes begin long before
8 an order ever comes in. For example, Rangen is very careful
9 about the suppliers that it uses and buys ingredients from.
10 New suppliers have their products thoroughly tested when the
11 product comes in to make sure that they meet Rangen's
12 specifications. Then as they become a trusted supplier,
13 they are tested on a periodic basis to make sure that the
14 quality is still there.

15 When ingredient shipments come in, Rangen's
16 quality control team actually will climb into the railcar,
17 they will climb into the shipping vessel, whatever it is
18 that the ingredient shows up in, and inspect it. They will
19 look for defects. They look for things like contamination,
20 damage that might otherwise affect the quality of the
21 ingredient that they are using to make their feed. They
22 never know if the ingredient is going to actually end up
23 being used in their feed. They don't know if it's going to
24 end up being used in, say, for example, National's feed.

25 All ingredients are treated the same. All

1 ingredients go through this process that Rangen has
2 developed over the decades that it has been in the feed
3 making business.

4 Now the order came in March 15th. It was set up
5 to be run on March 30th of 2010, and that's what happened.

6 Now when Rangen goes through -- when the
7 production date actually arrives, the formula is pulled up
8 in the system. The quantity of feed that's going to be made
9 is entered into the system and then the system itself spits
10 out the weights of each ingredient that are going to be
11 added. It just takes the tally, uses the formula that's
12 been provided by folks such as National or other companies.

13 If it happens to be a Rangen feed, then it uses
14 the Rangen formula and spits out what's called a mix sheet.
15 The mix sheet has each ingredient, the proportions, and
16 weights for those ingredients. That mix sheet is then
17 provided to the folks in the aquaculture division that are
18 going to go through and make the feed.

19 Those folks then begin assembling the ingredients,
20 getting the bins lined up for the major ingredients, for the
21 micro ingredients. They collect them, add them into a
22 hopper, and they begin the mixing process. They essentially
23 begin the mixing process by hitting a button.

24 Everything is computer controlled. The computer
25 controls the order in which the ingredients are added, the

1 rate at which they are added, and the speed with which they
2 are added. It does this because you have certain
3 ingredients that make up a large portion of the feed, and
4 then you have other ingredients that you have that make up a
5 much smaller portion.

6 It's really not that much different than when you
7 make cookies or bake a cake at home. You have flour, which
8 frequently is the biggest portion of the ingredients in the
9 recipe. You have things like salt or baking soda that are
10 much smaller. You still have to make sure that those
11 ingredients get distributed evenly throughout so you put out
12 a good quality product.

13 The same thing when you're making feed, the only
14 difference is the size with which you're doing it. It gets
15 dumped into a giant mixing bowl -- literally a giant mixing
16 bowl with a giant mixer that mixes this stuff together until
17 it turns into what's called a mash. The mash then gets sent
18 up a conveyor into a bin which feeds the mash into a pellet
19 mill. A pellet mill cooks the mash into a pellet. Pellets
20 are taken out and cooled and then fed through a grinder
21 until they are formed into crumlets, about the consistency
22 of bread crumbs. They are bagged, palletized, and then set
23 up for either pickup or delivery with the customer. That's
24 what happened in this case on March 30th.

25 Plaintiffs didn't actually make arrangements to

1 have their feed delivered until April 15th when the feed was
2 delivered from Buhl, Idaho to Preston, Idaho at the Griffeth
3 ranch. A few days later, Michael Jonsson comes up from Lehi
4 to pick up their portion of the feed, takes it back down to
5 Lehi.

6 Two things are going on by the time he gets the
7 feed back down there. One, they have split their herd. All
8 the darks stay in Lehi. A portion of the mahoganies stay in
9 Lehi. The balance of the mahoganies go to Cedar Valley.
10 The second thing that's going on is they are just about done
11 with whelping, all but a thousand dark kit breeders. That
12 is the population which both Jonssons have testified to was
13 affected by the lactation crumlets.

14 They began feeding on April 27th. Both of the
15 Jonssons have indicated that within a few days after that,
16 they claim they started seeing all kinds of problems,
17 lethargy, animals just being slow, not moving around, not
18 feeling well, dying either because they couldn't give birth,
19 or they gave birth and didn't give birth to strong kits that
20 died shortly thereafter.

21 All told, Dave said that it was about 4500 dark
22 kits that they lost during that period, 400 older breeders
23 that they lost, and then between the period when they
24 stopped feeding the lactation crumlets on June 7th through
25 November, they lost another 1500 animals.

1 The interesting thing is when they are losing --
2 what does that work out to, roughly 5,000 animals, they
3 don't call a vet. The first time a vet sets foot on their
4 property is August, and they get called out because they are
5 having a viral outbreak going on at the time.

6 So what they end up doing is retaining an
7 economist by the name of Wade Roberts. They ask Dr. Roberts
8 to take a look at their losses, evaluate them, and tell them
9 how much money they have actually lost. The funny thing is
10 Dr. Roberts concludes that they lost over a million dollars
11 in production that first year.

12 The interesting thing about Dr. Roberts and his
13 numbers -- this comes from his report. The one down here on
14 the bottom, there's a letter that Michael Jonsson wrote to
15 him as they were having their claim evaluated. What Michael
16 says -- and you're free to read it, but what Michael says is
17 this is their production for the years 2004 through 2012,
18 both pelt sales and live sales.

19 Now folks have talked about what pelt sales are.
20 Live sales are sales of live animals from one rancher to
21 another, because maybe a rancher loses some animals or they
22 want to expand their herd, or they just want to have some
23 genetic diversity going on instead of the constant
24 inbreeding that occurs. What we see is that Dr. Roberts'
25 numbers track for the years 2004 through 2010 very nicely.

1 So we've got, for sale year 2005, 34,602 animals
2 sold. Sale year 2005, 34,602. Every year the number tracks
3 perfectly through 2010 until we get to 2011 and 2012. For
4 some reason Dr. Roberts did not include live sales in those
5 years. These are pelt sales and pelt sales alone. Every
6 year before then is pelt sales with live sales. Big
7 difference between 36,520 total sales versus 28,782. Over
8 7,000 sales unaccounted for in 2011 alone. The very crop
9 that is at issue in this case, 7,000 sales, Dr. Roberts has
10 not accounted for.

11 It continues on to a lesser extent in subsequent
12 years. 31,000 noted in 2012 by Dr. Roberts. 34,000 noted
13 by Michael Jonsson. Big difference. Because what happens,
14 folks, is when you add -- when you account for the live
15 sales in 2011 and 2012, 2011 was a record year for the
16 Jonssons. They have never sold more animals than they did
17 in 2011.

18 The claim is that they had millions of dollars in
19 losses. The reality is that they have had record production
20 since feeding the lactation crumlets. The reality is that
21 their total sales have gone up each year. The reality is
22 they have produced more animals. The reality is that their
23 profits have gone up. That's the reality.

24 You've also heard folks mention Dr. Hall. Now
25 Dr. Hall is going to come in and testify about nitrosamines,

1 in particular one particular nitrosamine called
2 nitrosodimethylamine, NDMA for short. He will also talk
3 about histamines. Two things that Dr. Hall won't mention,
4 though, is whether he actually verified that plaintiffs
5 suffered a loss in the first place. He didn't. The other
6 thing that Dr. Hall isn't going to mention is that the
7 levels of those substances, even if you assume that they
8 were present, the levels of those substances in the ration
9 that the Jonssons fed to their mink were lower than any
10 level known to cause harm to mink.

11 Folks, plaintiffs claim they have suffered
12 millions of dollars in losses. The reality is their own
13 records -- their records, not my records, not Rangen's
14 records, not National's records, plaintiffs' own records
15 show that they have made record production levels since
16 feeding the lactation crumlets, and it shows that the feed
17 itself was just as it should have been.

18 When we're all done, we're going to ask you to
19 find in favor of National and we're going to ask you to find
20 in favor of Rangen. Thank you.

21 THE COURT: Ladies and gentlemen, I have let the
22 matter run into the noon hour because I felt it appropriate
23 that you hear the anticipated evidence of both sides.

24 I think you have had a snack or two. If not, you
25 should take advantage of what's there. But I think what I'm

1 going to do today is to tell you what we ordinarily have by
2 way of time scheduled. We'll usually start at 9:30. We'll
3 usually break briefly at noon. Give you a morning break.
4 Usually start the afternoon at 1:30. Give you a break.
5 Usually work until five o'clock. I think today I'm going to
6 let you go home a little early this afternoon, but I'm going
7 to give you an abbreviated lunch hour here. I've got 25
8 minutes to 1:00. Hopefully if I give you an hour, we can
9 start back in here by quarter to 2:00 anyway.

10 So I will give you your lunch break and ask you to
11 report back in at 20 minutes to 2:00. That will be a short
12 lunch break. We'll try to get started right at 2:45.

13 It's important that you remember what I've told
14 you. Don't talk to anybody about the case, even your fellow
15 jurors. Skip the electronics. Don't talk to anybody about
16 the case at all. We'll see you back here at 20 minutes to
17 2:00.

18 Let me tell you how to get here. You are better
19 off when you come in that front door and go to the south
20 elevators. Assuming that they're working -- I hope they are
21 all working -- come on up to the fourth floor. Walk to the
22 glass doors. There should be somebody there that will let
23 you through the glass doors. If not, there will be somebody
24 that you can speak to electronically and we'll let you in.
25 Come on down the hall and come in the back door to the jury

1 room. I will have the clerk go with you to show you the
2 back door of the jury room.

3 Remember what I've told you. See you back here at
4 20 minutes to 2:00. Appreciate your help and your
5 attention. Thanks very much.

6 (Jury excused)

7 THE COURT: Tell me who your first witnesses are
8 going to be.

9 MR. HANCEY: Our first witness is going to be
10 Keith Jonsson, and then Michael Jonsson.

11 The Court mentioned that we might break a little
12 early today. What time were you thinking?

13 THE COURT: 4:30, I am thinking. Let's see how we
14 get along. But you've had a pretty long day already.

15 We'll see you back here at quarter to two. Thanks
16 a lot.

17 (Recess)

18 THE COURT: Looks like we're all here. Let's
19 bring in the jury.

20 (Jury present)

21 THE COURT: Now we have the opportunity of
22 beginning to hear what the evidence is, ladies and
23 gentlemen. I should alert you, today I'm going to let you
24 go home a little early, namely around 4:30, we'll see how we
25 do, and give you a chance to get caught up a little. And

1 those of you who may have difficulty arriving from far
2 places, you better work with the clerk to make arrangements
3 to stay over somewhere.

4 But, at any rate, counselor, you go ahead. Call
5 your first witness.

6 MR. HANCEY: Our first witness, Your Honor, is
7 Mr. Keith Jonsson.

8 THE COURT: If you will come forward and be sworn,
9 please.

10 KEITH JONSSON,

11 Having been duly sworn, was examined

12 and testified as follows:

13 THE CLERK: Can you state your name and spell your
14 last name for the record, please.

15 THE WITNESS: My name is Keith Jonsson. It's
16 J-o-n-s-s-o-n.

17 THE COURT: Make sure your green light is on.

18 THE WITNESS: It is.

19 THE COURT: Everybody can hear.

20 Counselor, you go ahead.

21 MR. MERCER: Thank you, Your Honor.

22 Your Honor, at this time the plaintiffs would like
23 to invoke Rule of Evidence 615 and exclude witnesses.

24 THE COURT: Oh, sure. And I will ask counsel,
25 other than designated folks, if you will monitor it. We

1 would ordinarily just have them wait in the hall.

2 MR. MERCER: Thank you, Your Honor.

3 THE COURT: Go ahead.

4 DIRECT EXAMINATION

5 BY MR. MERCER:

6 Q Good afternoon, Mr. Jonsson. Where do you live?

7 A Lehi, Utah.

8 Q How long have you lived in Lehi, Utah?

9 A Since I was 18, so, geez, 50 years -- or 40 years.

10 Excuse me.

11 Q So that makes you about 58 years old?

12 A It does.

13 Q How many children do you have?

14 A Six.

15 Q All adults now?

16 A Yes.

17 Q What do you do for a living?

18 A I've raised mink all my life.

19 Q When did you start raising mink?

20 A I started raising them around 21, 22 years old. Got my
21 own ranch when I was about 25.

22 Q Did you work in the industry prior to that?

23 A I started working -- the first year I think I was 14 or
24 15 years old. I started working on my neighbor's mink ranch
25 during the heavy seasons, and then he hired me full-time.

1 Q Have you done any other work?

2 A Raised kids and built my ranch.

3 Q So you've operated your own mink operation, by my math,
4 about 34 years?

5 A Yes.

6 Q What is name of your mink ranch business?

7 A Cedar Valley Fur Farm.

8 Q Who owns Cedar Valley Fur Farm?

9 A I do.

10 Q How many mink ranches does Cedar Valley Fur Farm have?

11 A They have two.

12 Q Where are they?

13 A One is located in Lehi at 9250 West 8170 North, and the
14 other one is out in the county in -- actually it's Eagle
15 Mountain in Cedar Valley.

16 Q How far apart are those two ranches?

17 A Roughly 15 miles.

18 Q How does the size of your combined ranches compare to
19 the size of other mink ranches in Utah?

20 A Oh, there's probably four of us about that size, within
21 a few females. I'm an upper larger one.

22 Q So you would consider your size in the upper larger
23 area?

24 A Yeah. Yes.

25 Q Approximately how many employees did you have in the

1 2010 mink season?

2 A I believe nine full-time ones.

3 Q What was the approximate size of your mink herd at the
4 beginning of the 2010 mink season?

5 A I believe it was around 7900 females.

6 Q Why do you calculate the size of your mink herd
7 according to females?

8 A It's from your banker asking you. That's how they base
9 everything off. They ask you how many females before you
10 start your year. Then they come in later and ask you on
11 your kit count and it progresses from there.

12 Q You mentioned the word kits, and some of us here are
13 city folk. What do you mean when you say kits?

14 A Kits is the baby offspring out of your mink.

15 Q What types of things need to be done on a mink ranch on
16 a daily and yearly basis?

17 A After you've done it as long as I have, it don't seem
18 like you do much, but when you're there, it seems like it
19 takes all day. But we feed, nest, clean, move mink around,
20 vaccinate, sterilize, maintenance -- a lot of maintenance.

21 Q What are your personal responsibilities at the ranches?

22 A I backed off a little bit the last couple of years. I
23 do a lot of maintenance work and my son does a lot of the
24 purchasing and things like that.

25 Q Which son is that?

1 A This is Michael, the one that's here with me.

2 Q The one here in the courtroom today?

3 A Yes.

4 Q That's Michael Jonsson?

5 A Yes.

6 Q How would you describe your involvement? Are you an
7 office guy or a field guy when it comes to mink ranching?

8 A I'm probably on the ranch, or touch in, seven days a
9 week most of the time, but I try to get away at least one
10 day a week.

11 Q Do you raise any other animals on your mink ranches?

12 A I have horses, sheep, and we raise like 60 acres of
13 hay.

14 Q Let's discuss mink generally for a moment to give us
15 all a feel for your business. How big is a mink when it's
16 born?

17 A The best way to describe it when a mink is born, it's
18 about the size of that little pinky, about the same length,
19 but a little skinnier.

20 Q How long does it take a mink to reach adulthood?

21 A About eight months.

22 Q How long is the mink gestation period?

23 A That's kind of a funny question. The gestation period
24 is the time they conceive to the time they actually have
25 them. A mink is one of the very few animals that can breed

1 and carry a fertilized egg for 30 days before it actually
2 implants. So they can go out to 72 days. But that's --
3 gestation is the time frame between conception and having
4 their babies.

5 Q Generally speaking, how long is the gestation period?

6 A I figure about 46 to 54 days.

7 Q Meaning they are pregnant that long?

8 A Yes.

9 Q How often do the females breed?

10 A They breed once a year -- well, they breed -- we breed
11 them three times a year, but the cycle -- or the month we
12 breed them in is March, but they run on a seven- to
13 eight-day cycle, and so actually you breed them a first
14 time, second time, and then a third time. But it's all --
15 they have their babies once a year, but we breed them --
16 well, we're breeding them three times.

17 Q How long does the season last when the mink are giving
18 birth to kits?

19 A Usually they start around the 15th, and you have just
20 one or two litters come in, and it's like Christmas coming.
21 Then about the 18th, 19th, they really start coming in.

22 Q What month are we talking about?

23 A April. Excuse me. And about the 18th, 19th, 24th,
24 they really start coming in. By the 25th, your old ones are
25 in pretty good.

1 Q How many litters does the average female produce on
2 your ranch?

3 A We keep pretty young herd on all my ranches. We try
4 not to run them anymore than three years in a row.

5 Q What is the average number of kits per litter on your
6 ranches?

7 A Born, the mahoganies will do a six and the blacks will
8 do a five.

9 Q So tell me a little bit about what blacks and
10 mahoganies mean.

11 A Blacks is a genetic type of a dark mink, so genetically
12 they are black in color. And a mahogany is dark brown to
13 almost a black in color.

14 Q Are those two colors you raise on your ranches right
15 now?

16 A Yes, it is.

17 Q And in 2010?

18 A Yes.

19 Q Are you a member of the Fur Breeders Agricultural
20 Co-op?

21 A Yes, I am.

22 Q What is the Fur Breeders Agricultural Co-op.

23 A It started back in I think the mid '40s or something,
24 maybe earlier than that. What it is is a bunch of ranchers
25 that raised mink got together and built the co-op to have

1 better buying power and to mix and lower overhead costs to
2 get it delivered to you.

3 Q You're talking about feed?

4 A Yes.

5 Q Is there anything else the fur breeders do together?
6 Do they sell together?

7 A They don't sell together, but -- some of us do, but
8 most, you know, you pick who you want to sell with. But
9 through the co-op, they buy supplies for us and have it on
10 inventory. They purchase our vaccine and have it on
11 inventory for us. Wiring, machinery.

12 Q How long have you been a member of the Fur Breeders
13 Agricultural Co-op?

14 A Since I was 19.

15 Q So about how many years have you purchased your mink
16 feed from the co-op?

17 A What's that? Thirty-nine years.

18 Q Every year?

19 A Every year, yeah.

20 Q Have you held any positions in the co-op?

21 A I've sat on the feed committee for around ten years, or
22 maybe longer. I've also served a term on the board of
23 directors.

24 Q How do you get your feed from the co-op?

25 A They bring it out in a semi that looks like a milk

1 tanker with a pump on the back, with scales underneath it to
2 weigh it off to you.

3 Q How often?

4 A On the heavy season they bring it daily, and on the
5 off-season, when it's cooler, they bring it every other day.

6 Q How do you feed this co-op feed to your mink?

7 A When they bring the feed to us, they pump it off in --
8 it looks like a grain silo with a door on the bottom and we
9 back our little feed carts. It looks like -- it's kind of
10 hard to describe it if you haven't seen one, but it's a
11 hydraulically driven little golf cart with a tank on it
12 basically. Then as you drive along, you push a button and
13 it discharges an amount of feed out to the mink.

14 Q In 2010, about how much did it cost to feed one mink
15 for one year?

16 A That's kind of a hard question to do unless I look
17 exactly what we was paying month to month on feed. But in
18 2010, it was roughly 110 pounds per animal to raise it. I
19 believe the feed cost was probably 15 to 18 cents through
20 that year. So it would be \$20 probably. Maybe 22.

21 Q What are some of the other costs associated with mink
22 ranching?

23 A Boy, electrical bills, maintenance bills, wages, 401(k)
24 money, Workers Comp, gas, feed costs, water, just like --
25 there's like 15 different categories.

1 Q Now let's talk a little bit about breeding. How do you
2 select your breeders?

3 A As you start out your year, you take and look at your
4 performance on our females from the year before. On our
5 mahoganies, we select the females and keep them over if
6 they've produced a six or better average. On the blacks, we
7 keep them over if they've produced a five or better average.
8 The offsprings off those we put into certain sheds if they
9 produce that high. If they've produced under the six or
10 under the five, they go into pelting sheds.

11 Q By six and five, you're talking about kits per litter?

12 A Kits per litter. So we're selecting on the blacks out
13 of litters five and larger to pick them for the replacement
14 females. On the mahoganies, also the same. You pick them
15 on confirmation, color and nap.

16 Q In terms of breeding, what is the nucleus of the herd?

17 A Nucleus of the herd to me is you have one-,
18 two-year-old females, and then you've got the first year
19 kits that you're going to breed. It's like a heifer cow.
20 The nucleus is the background that you pick two years or
21 three years of selection of having performance records on
22 them. So the nucleus of that herd builds production and
23 more equal confirmation out of your mink when you are
24 grading them.

25 Q You mentioned that you breed annually. When do you

1 start breeding each year?

2 A It depends when Monday falls. We try to aim the 1st of
3 March, but sometimes we've started it at the last day of
4 February, and that's when we start breeding.

5 Q So right around the 1st of March?

6 A Yeah, right around the 1st of March.

7 Q How long does it take to breed 8,000 mink?

8 A We try to have them all wrapped up by about the 20th.
9 You start with your old ones and then you finish up on your
10 younger ones.

11 Q Why do you start with the older ones?

12 A They come in a heat cycle earlier.

13 Q Than the young ones?

14 A Yes.

15 Q The young ones are what you call kit breeders?

16 A Well, they're the kits you kept over, raised for the
17 summer, and they become young adults. Then you've selected
18 those for quality and confirmation, and then you pick them
19 for a breeder. They have not had kits yet.

20 Q What do you call the breeders who are beyond kit
21 breeders?

22 A Old females.

23 Q Old females?

24 A Old females.

25 Q Not a very nice term.

1 A Yep. Mothers.

2 Q Mothers.

3 Where does the breeding take place on your ranches?

4 A They take place all in Lehi.

5 Q At that point, when you are breeding at Lehi, do you
6 have any mink at Cedar Valley?

7 A No.

8 Q When do you populate the Cedar Valley ranch?

9 A On about the 13th of April, we start moving them out so
10 we can have them in their pens by the 15th, 16th. We kind
11 of move them by their dates that we know off their breeder
12 cards. So we should have most of them out there around the
13 16th, 17th.

14 Q In the best case scenario, are all female mink pregnant
15 at the end of the breeding process?

16 A We hope so.

17 Q So you mentioned the gestation period of 45 to 55 days.
18 So what time is the birthing process complete, generally?

19 A You will have one or two percent that could go before
20 the dates that I told you, but most of them come in between
21 the 18th and the 10th of May.

22 Q Do mother mink nurse their kits?

23 A Yes, they do.

24 Q How long do they generally nurse?

25 A We try to wean them at five weeks, between five and six

1 weeks.

2 Q Let's talk just a little bit about pelting. What date
3 do you typically begin pelting your mink?

4 A There's a -- normally we start just right around
5 Thanksgiving.

6 Q Where does pelting take place?

7 A Both ranches.

8 Q What do you do with the pelts?

9 A We ship them off to NAFA or to be processed.

10 Q What's NAFA?

11 A NAFA is an auction company that has a processing plant
12 there, so when you send your raw skins in, they stretch and
13 dry them, just like the old trappers did, and then they
14 match them and put them up for sale.

15 Q At what point do you pick your mink to hold over or for
16 breeding the next year?

17 A November and December.

18 Q Now you mentioned the auction and NAFA. Which auction
19 did you use to sell your mink in 2010 -- the mink you
20 produced in 2010?

21 A I was selling at Seattle Fur Exchange.

22 Q Do you generally attend the auction?

23 A If it's at the time frame that I can go, yes, I do.

24 Q How do you participate in the auction when you go
25 there?

1 A I talk to my sales representative, I talk to the
2 auctioneer, and we go over prices with him, and that's about
3 it.

4 Q Who are the typical buyers of the mink pelts?

5 A Lately it's been China, Russia, Japan, Korea. China
6 has been probably taking 80 percent of them.

7 Q What affects the price, generally, at the auction?

8 A The price is they pay you by length and quality of your
9 pelt.

10 Q What affects the price of your pelts specifically?

11 A Size, color, nap, fur quality.

12 Q Who determines whether your mink pelts are sold as
13 black pelts or brown pelts?

14 A Once they have been sent to the auction company, the
15 auction company grades them and they have color guidelines
16 they fall in. And wherever they fall, that's what they sell
17 under.

18 Q Is it unusual for an offspring of two black mink to be
19 sold as a brown pelt?

20 A The genetics is there, but the color may not be there.
21 If the color isn't there, they can grade some of the blacks
22 into mahoganies.

23 Q How do you finance the operation of your mink ranches?

24 A As a mother mink has her babies and we get like a
25 three-week kit count, or a five-week, somewheres between

1 there, three- and five-week kit count, we turn it in to the
2 banker and the banker allows us so much money per animal
3 that we have produced up to that point.

4 Q I want to try to give a brief summary of a typical mink
5 year that you just told us about. Your mink breed in March?

6 A Yes.

7 Q They give birth in April or May?

8 A Yes.

9 Q They nurse until June or July?

10 A Last week of June we try to have it done so we can
11 vaccinate the first week of July, so they are not nursing
12 their mother before we vaccinate them.

13 Q You begin pelting in November or December?

14 A End of November, first of December, yes.

15 Q The pelts from that year are then sold at auction the
16 following year?

17 A Yes.

18 Q I would like to talk specifically about your 2010 mink
19 season. When did you begin breeding that year?

20 A March 1.

21 Q When did you move your mink to the Cedar Valley ranch?

22 A Between the 13th and the 15th probably.

23 Q Of?

24 A Of April.

25 Q Which mink did you move to the Cedar Valley ranch in

1 2010?

2 A We keep all the darks in Lehi. And then we finish
3 filling it up with the old females. And then the balance we
4 take out to Cedar Valley.

5 Q Now we need a little bit of interpretation from what
6 you've said. You have mentioned darks?

7 A In 2010, I had 2100 dark females. There was --

8 Q Does that mean black?

9 A Blacks. Darks and blacks are considered the same
10 thing, when I talk dark or black.

11 Q What terms do you use for the browns?

12 A Mahoganies. Mahogany covers from a medium brown to a
13 very dark brown. So it's just mahoganies. There's no
14 variation in that one.

15 Q So I interrupted you. You were telling us about which
16 mink you moved to the Cedar Valley ranch in 2010.

17 A I moved out there in 2010 -- I believe it was 1900 kit
18 mahoganies, and there was 2,000 old mahoganies.

19 Q Which mink did you keep at the Lehi ranch that year?

20 A I kept 2100 dark females in there. A thousand of them
21 were kits and 1100 of them was old ones. The balance was
22 mahogany old females. I believe it was 1900.

23 Q So how many total were in Lehi?

24 A 4,000. The ranch holds 4,000, so I know that. That's
25 easy.

1 Q About how many in Cedar Valley that year?

2 A I took out 3900, and the Cedar Valley ranch is still
3 growing.

4 Q Who supplied your basic mink feed during the 2010 mink
5 season?

6 A The Fur Breeders, which is the FBAC. It's a co-op that
7 we belong to. We took Fur Breeders off the truck from --
8 it's just better to have FBAC on them.

9 Q But it was the co-op that you told me about earlier?

10 A Yes.

11 Q Did you add anything to the co-op feed in 2010?

12 A Yes, I did.

13 Q What did you add?

14 A I bought some lactation crumlets from National Feeds.

15 Q Why did you add lactation crumlets to your mink feed in
16 2010?

17 A Oh, I was up at the sale and Kent Griffeth was talking
18 to National, and he came over and told me that they had a
19 new product out. I says, that sounds good. So we went back
20 and we talked to them. He said he needed six more pallets
21 to fill up a semi, so I says I would buy them.

22 Q Let me back up there a minute. You said you were up at
23 the sale. What sale are you talking about?

24 A Seattle Fur Exchange.

25 Q The Seattle Fur Exchange auction that you told me about

1 earlier?

2 A Yes.

3 Q So you were there at the auction and you mentioned a
4 fellow named Kent Griffeth. Who is that?

5 A He's an associate mink rancher out of Preston or
6 Lewiston, Idaho.

7 Q What else can you tell me about Mr. Kent Griffeth?

8 A He raises a few mink up there, and his dad is also in
9 the business. He's been feeding National feed for a long
10 time. And basically he wanted to talk me into filling up
11 his truck. I used to feed it ten, 15 years ago and I done
12 good on it, so I thought I would try it.

13 Q Is Kent Griffeth a friend of yours?

14 A Yes, he is.

15 Q So you're up there at the auction, you run into your
16 friend, Kent Griffeth, and how does he first approach you on
17 these lactation crumlets?

18 A He says he had a new product out and he said it sounded
19 good. He asked me if I would be interested. Actually at
20 that time my mink were being sold, and I says, let's get
21 together later and we'll discuss it.

22 Q So you were familiar with National feed at that time?

23 A Yes, I was.

24 Q You mentioned that you had used their product before?

25 A Yes, I have.

1 Q How long prior to 2010?

2 A It was probably ten years previous.

3 Q You mentioned that was a good experience?

4 A It was.

5 Q What conversations did you have with National Feeds
6 representatives about the lactation crumlets while you were
7 at the auction?

8 A I walked back and they told us about their new product
9 that they was putting out, and that was about it.

10 Q So what ultimately made you decide to purchase the
11 lactation crumlets?

12 A They needed six more pallets to fill up a semi.

13 Q Tell me about that. What do you mean they needed six
14 more pallets?

15 A It takes so many pallets to fill up a semi. If you buy
16 a half a semi, you have to pay the whole cost of the semi.
17 So we was trying to put enough ingredients together to fill
18 up a semi to bring out, and he needed six more pallets to
19 fill up the semi to maximum load it, and I says, yeah, I'll
20 buy them.

21 Q And what quantity -- how many pounds is six pallets?

22 A I believe there's 40 bags on a pallet, and they are
23 50-pound bags, so I believe there's 2,000 pounds on a
24 pallet.

25 Q So that's what you bought?

1 A Yes.

2 Q When did you receive your 12,000 pounds of lactation
3 crumlets?

4 A I believe around the 21st of April.

5 Q How did you get them?

6 A I sent my son up to pick them up on a trailer.

7 Q Michael?

8 A Yes.

9 Q Why did you send Michael instead of just having them
10 shipped down to your place?

11 A They wanted \$1200 to make a run from Preston, Idaho
12 down to Lehi.

13 Q In addition to what they were charging Kent?

14 A Yes.

15 Q You didn't want to pay the \$1200?

16 A Basically we told them, when we was negotiating truck
17 fees, that's ridiculous.

18 Q Michael is cheaper than that?

19 A He is.

20 Q Where did Michael take them?

21 A He brought them down and backed them up in front of my
22 shop.

23 Q How did you pay for the lactation crumlets?

24 A We wrote them a check.

25 Q Wrote who a check?

1 A National Feeds.

2 Q They sent you an invoice?

3 A Yes.

4 Q How much did you pay?

5 A I believe it was around \$7,000.

6 Q When did you begin feeding the National feed lactation
7 crumlets to the mink at the Lehi ranch?

8 A I believe that was the 25th.

9 Q Of?

10 A April.

11 Q What day of the week was that?

12 A It fell on a weekend. I believe it was Sunday. I'm
13 not sure exactly if it was a Sunday or Saturday, but I was
14 on the ranch and we was a little short on feed, so we
15 started mixing.

16 Q How far along were you in the birthing process when you
17 began feeding the crumlets to your mink at Lehi?

18 A Two-thirds in.

19 Q What does that mean, two-thirds in?

20 A If you take all the females and you take about
21 two-thirds of them, they've either just had them or they've
22 had them for a few days, and that's what I'm telling you.
23 Their kits are in their box with them.

24 Q So two-thirds of the 4,000 female breeders at Lehi had
25 given birth?

1 A Yes.

2 Q One-third of the 4,000 had not; is that correct?

3 A Yes.

4 Q How did you feed the lactation crumlets to your Lehi
5 mink?

6 A We have a little mixer off the side that I put together
7 to add crumlets in with previous years.

8 Q To the side of what?

9 A To the side of my feed tank. It's like the holding
10 bin. The fur breeders delivers the feed to the holding bin,
11 and then we put one of my feed machines underneath it for a
12 pump station to pump it up into the feed mixture.

13 Q So you pump it out of the silo, the co-op feed, pump it
14 up into a mixer; is that right?

15 A Yes.

16 Q Using the same machine that you use to feed the mink?

17 A We have several machines, so we just stick one
18 underneath and leave it there.

19 Q Then tell me about the mixing process.

20 A What you do when you start mixing it, you turn on the
21 machine, you start pumping the feed into the mixer. And
22 then we've got water plumbed in right there, and we wet the
23 mixture down so it don't stick to the edges and it starts
24 mixing it and makes a slurry out of it. And once you get so
25 much in, you've got a good slurry going, then you take a bag

1 of National feed and you dump it in there, and then you add
2 more feed to it to get to the consistency you want.

3 Q How many bags would you put in per mixing -- per
4 mixture?

5 A When we started for probably the first two days or --
6 we was afraid mixing new product in, it might knock the
7 mothers offbeat. So I think the first two days we put one
8 bag in. Then after that, we went right up to two bags of
9 mixture.

10 Q So once you are finished adding ingredients to the
11 mixing bowl -- do you call it a mixing tank bowl?

12 A Just a mixer.

13 Q What's in there to make a batch?

14 A In the batch?

15 Q Yes.

16 A There's the feed from the co-op and National crumlets
17 out of the bag, and then water.

18 Q So how many bags of National Feeds crumlets?

19 A There's one bag in when we first started for the first
20 couple of days. Then we went to two. We was aiming for
21 around 27 percent.

22 Q So how much co-op feed would be in one mix?

23 A I keep saying it's an 800-pound mixer, but it's a
24 little bit less than that, and it has to do with how much
25 water you add. But it probably comes out about 760 pounds

1 mixed. If you go any fuller than that, it starts spilling
2 over the edges. So we kind of hold it back just a little
3 bit. And two bags of National feed, so basically the ratio
4 would be 200 pounds of feed and water plus co-op feed.

5 Q How often did you mix the crumlets into the feed?

6 A I mixed it every day.

7 Q How many batches of mix would you mix per day?

8 A That's determined on how much the females are eating.
9 When they first start having their babies, they're not
10 eating that much. After they've had their babies for four
11 or five days, they start consuming more feed, so you build
12 up your feed quantity to cover them.

13 Q So at the height, how many batches per day were you
14 feeding?

15 A Probably five and a half -- five, five and a half.

16 Q When did you run out of crumlets?

17 A I believe it was the first week of June.

18 Q Did you feed any of the lactation crumlets to any of
19 your mink at the Cedar Valley ranch in 2010?

20 A No.

21 Q Sorry.

22 A No.

23 Q Why not?

24 A Because they had been moved out there and we never had
25 crumlets or mix facilities out there.

1 Q What does that mean you didn't have mix facilities?

2 A We don't have a way to mix the crumlets into the feed
3 out in Cedar Valley.

4 Q So none was fed?

5 A None was fed any National crumlets in Cedar Valley.

6 Q What co-op feed did you feed at Cedar Valley in 2010?

7 A Just the Utah co-op I belong to, the FBAC.

8 Q Same co-op feed as Lehi?

9 A Yes.

10 Q Same truck?

11 A Yes.

12 Q What were the differences between the way you ranched
13 your mink at Lehi and the way you ranched your mink in Cedar
14 Valley in 2010?

15 A No difference other than we mixed the lactation
16 crumlets in the feed.

17 Q At Lehi?

18 A At Lehi.

19 Q What type of whelping -- I'm using the term. Can you
20 tell me what whelping means?

21 A Whelping is as a mother gives birth.

22 Q So when I have been talking about mothers giving birth,
23 what term does a mink rancher use?

24 A Whelping.

25 Q What type of whelping weather did you have in 2010?

1 A It was actually one of the better years that we've had
2 because it wasn't too hot, it wasn't too windy, no snow
3 blowing, and it was a little bit rainy and humid, and that's
4 the best conditions to whelp under.

5 Q How do you know that?

6 A Past experience of 30, 40 years ahead of that. You
7 never want heavy wind.

8 Q Did you experience any unusual problems with your Lehi
9 mink herd during the 2010 whelp?

10 A I am actually the one that goes through every litter.
11 When I go through a litter and I look at them --

12 Q Let me just stop you there. Did you experience some
13 problems?

14 A Yes.

15 Q What problems?

16 A As I was going through the females, the black kit
17 females were having -- at first they done fine. And then
18 you started to see a bunch of extra babies out in the pen
19 that weren't being taken care of. That was my first
20 noticing of it.

21 Then I realized they was lifeless, kind of blue in
22 color instead of pink, no vigor in them. The mother wasn't
23 taking care of them and she was -- having the same issues
24 with her. She acted like she didn't feel very good.

25 Q What other problems did you notice?

1 A As I was going through all the mink, right then I'm
2 going through 4,000 females, looking at all the babies,
3 worrying about the ones that have them, and I kept coming
4 back to them kit black females that were giving heavy birth
5 right then -- or was whelping heavy right there. I
6 constantly was in those sheds just -- some would have them
7 and take two in their box and leave the rest out in the pen.
8 Some would be all out in the pen and the mother would be in
9 the box, and that's -- I mean that's not normal.

10 Q Why is it not normal?

11 A All the rest of the ranch that whelped in was doing
12 fine. For the past -- I mean I've raised mink for a long
13 time. I've brought in a lot of crops for myself and my
14 previous employer, and I've just never seen this.

15 Q When did you first notice these problems?

16 A I noticed it probably around the 2nd of May. The first
17 day I didn't think too much of it. The second day I told
18 Michael as he was mixing, I says, them kits ain't doing as
19 good as I expected. Right after that we called the vet and
20 talked to him about it.

21 Q Who did you call, which vet?

22 A Dr. Larsen. I actually assigned that to my son. And
23 we was going to talk to Dr. Larsen is who we was going to
24 talk to.

25 Q You told Michael to call Dr. Larsen, and he's a vet?

1 A Yes.

2 Q Who does he work for?

3 A He works for the Fur Breeders, part-time.

4 Q How were these problems you were noticing different
5 from a normal whelping season?

6 A I'd never seen this many dead babies laying out in a
7 pen before ever.

8 Q What day did you realize it was an actual problem?

9 A I questioned it by the third and by on the fourth I
10 knew that there was something wrong.

11 Q Was there a particular group of mink that were having
12 the problems?

13 A It was the latest bred ones on my ranch. It was the
14 ones that was just whelping, and the later -- all the later
15 bred mink were having issues.

16 Q So in lay terms what does that mean, not using the term
17 whelp?

18 A What's that?

19 Q Not using the term whelp, which group of mink were
20 affected?

21 A It would be more readily seen in the black kit females.

22 Q Have you estimated your mink losses at Lehi in 2010?

23 A Yes.

24 Q What is your estimate?

25 A We estimated that there was at least 4,000 babies that

1 we should have had out of a thousand kit females. Then
2 across the ranch, we was a little bit short on them too.
3 And then when we separated the mother mink from their babies
4 at five weeks and put them back in the pens, we was down
5 400, 450 female mink that either died or perished from
6 having birth.

7 Q Did you tell me about a group of mink from June until
8 November?

9 A In the Lehi ranch, we was experiencing a little
10 difficulties all along. The death rate was probably two to
11 three times higher than I had expected and there was, we
12 estimated, about 15 plus on top of it -- hundred.

13 Q 1500?

14 A Yeah.

15 Q So let me talk more specifically about those three
16 numbers you mentioned, 4,000, the 1500, and the 400. You
17 said the 4,000 -- tell me again how you calculated the
18 4,000.

19 A Okay. If you have a thousand mother mink and you're
20 expecting to have a five average on them --

21 Q Which group of mink are you talking about?

22 A I'm talking about the black kit females. We had a
23 thousand black kit females in their pens to whelp. When we
24 got done whelping, we counted the live kits, and there's
25 just a few under a thousand that was still alive. So we

1 estimated right there, there was 4,000 plus that we was
2 lacking of what we should have had.

3 Q And so how do you get to the 5,000? You said five kit
4 average. Do that math for me.

5 A Okay. A female normally has a five average.

6 Q Five kits?

7 A Five kit average. When we counted the live babies at
8 the end of whelping, after birthing, there was a little less
9 than a thousand in them thousand mothers.

10 Q That's how you calculated --

11 A That's how we calculated them.

12 Q -- 4,000 black kit breeder loss?

13 A Yes.

14 Q Tell me how you calculated the 1500.

15 A The 1500 is across the rest of the ranch.

16 Q Lehi or Cedar Valley?

17 A This is in Lehi. Across the rest of the ranch, between
18 the time that we took our early kit count and vaccination
19 and right through that time period, we was down about 1500
20 mink.

21 Q How did you calculate that?

22 A From past experience on the year of the female times
23 the normal kit average.

24 Q How did you calculate the 400?

25 A The 400, as you put your 4,000 into your pens to

1 whelp -- to have birth --

2 Q You're talking now about adults?

3 A Yeah, adults. Then when you put them back in their
4 pens after you wean them, we was down 400.

5 Q On 400 from the 8,000?

6 A Yes. 4,000 -- well, this is in Lehi, so there's only
7 4,000 in there at the time. The rest of them is in Cedar
8 Valley, and we kept them out there. So we're talking
9 specifically the 4,000 that was in Lehi. When we put them
10 back in their pens to hold them over to the next year, we
11 was down 400 plus.

12 Q How did these problems in 2010 affect the quality of
13 the pelts from the 2010 season?

14 A The mink seemed like they would -- once we got past
15 birthing and they got like two or three weeks on them, they
16 seemed like they had grown so-so, but they seemed a little
17 shorter. They seemed a little pudgy, not as clear in color.
18 They just weren't as nice looking mink as I expected and
19 have had over the previous years.

20 Q Was there any effect on the leather?

21 A When we had them fleshed that fall, there was a lot
22 more black leather in it and a lot more mink got ripped.

23 Q What does that mean?

24 A My job as a rancher is we skin them, or harvest them,
25 and take them to a processor to be stretched and dried.

1 When he's doing that, he made a comment that my leather was
2 darker than what it had been previous years.

3 Q What effect did all of those things have on the price
4 of the pelt?

5 A A true prime mink has white, smooth, silky leather,
6 glossy in tone, good nap, good color, good confirmation, it
7 gives you your size. When the pelts went in, we had a good
8 season that year except the quality of pelts were just not
9 what I expected and hadn't had -- I hadn't seen nothing like
10 this for years, ever.

11 Q How did these 2010 problems affect your mink ranching
12 reputation?

13 A In the Seattle Fur Exchange, I have one of the nicer
14 dark groups up there. We're ranked third -- usually we're
15 third and fifth, and then we trade that back and forth with
16 other ranchers. But we're in the top ten, just say. When
17 the quality of pelts we sent in and the volume of pelts we
18 sent in start declining, it's hard to hold your reputation
19 because you start losing respect from the ranchers and
20 auction company and people that buy your pelts.

21 Q How did the problems affect your 2010 mink season?

22 A It's a little bit of the same thing all the way through
23 because we hadn't quite figured out what was all going on
24 and production was not the best but okay. The pelts just
25 weren't quite making it there. When I say that, they are

1 just not the quality and size that I've had years before.

2 Q Now you're here, you've heard the opening statements
3 this morning; is that correct?

4 A I did.

5 Q Is it true that you sold more mink pelts in 2010 than
6 you had for many years?

7 A Yes. We was increasing them, and I'm sure we did.

8 Q What I mean by that, 2011 from your 2010 season; is
9 that correct?

10 A Yes.

11 Q Tell me how that happened.

12 A Well, in 2009, I had a lot more kits, in 2009. In
13 2010, I had a lot more old females and the production is a
14 lot higher on older females. The other thing is when I knew
15 there was a problem in the mink -- I have to account for
16 everything I do through my banker, on expenditures. So we
17 started saving the skins right after whelping, or right the
18 first of whelping, or pre-whelp, we started saving the skins
19 and everything all the way through, and it added up to quite
20 a few.

21 Q Explain what you're talking about, these extra skins.

22 A You normally don't harvest a mink until November or
23 December, and the mink market was increasing so much that I
24 told Michael to recoup some of our investment. I want to
25 make sure every skin makes it to the auction company. So we

1 kept a lot of subgrade skins that we would normally not
2 have.

3 Q So what did you do with these mink? For example, the
4 1500 mink that died between June and November, what did you
5 do with those pelts?

6 A What you do, if you can save them and they haven't
7 spoiled from the heat, you save them. You skin them and put
8 them in the freezer and save them for later to flesh and put
9 them on the market.

10 Q What kind of value do you get for those pelts?

11 A Not near as much as if they're prime mink in the fall.

12 Q How many pelt sales did you expect to have coming out
13 of your 2010 season?

14 A We had almost 8,000 females, 7900 or something like
15 that, right in between there, I think. I'm not even sure
16 right at the moment. We expected a five average on the
17 blacks and a six average on the mahoganies.

18 Q Can you work that math for me or not?

19 A I could calculate it out, but it comes out to probably
20 around 44,000, or something like that. Maybe 45. I don't
21 know.

22 Q That's what you expected from the 2010?

23 A That's what we expected, yes.

24 Q How was the general health of the Cedar Valley herd in
25 2010?

1 A It was great.

2 Q How was the whelping season for the Cedar Valley herd
3 in 2010?

4 A Great.

5 Q What was the kit per litter count for the Cedar Valley
6 herd in 2010?

7 A It was the highest I've ever experienced out there.
8 The old females actually produced a little over a six and
9 the kits out there produced just a hair under six, but we
10 actually averaged just a hair over a six between the two of
11 them.

12 Q What kind of death count did you have from your Cedar
13 Valley herd in 2010?

14 A Not very much. We could walk through that ranch and I
15 could go home and sleep at nights, and I would go to Lehi
16 and it was pretty rough.

17 Q To a mink rancher, how important is the whelping
18 season?

19 A Your whelping season sets your whole year off. From
20 the time you start breeding, all the way through breeding,
21 getting your boxes ready, and to whelp is -- that's your
22 whole financial year. If you do not have them at the time
23 they are supposed to whelp, there is no way to fix the
24 problem.

25 Q So we're talking about whelping meaning giving birth,

1 and that's I guess the heart of the business?

2 A Yes, it is. That's the basis you borrow your money and
3 do your financing on.

4 Q What are your specific responsibilities on the ranches
5 during the whelping season?

6 A I actually go through every litter every day and look
7 at the ones that's had babies. I actually have a couple of
8 guys in front of me that walk through, and if they see a
9 blood drop out in the middle of the pen or signs of giving
10 birth, they walk through in front of me and mark them. Then
11 I have a lady go through with me and I visually look at
12 every litter -- I have a little flashlight. I inspect them.
13 We put okay or not okay on the card. And we have lids on
14 every box. And the way that lid turns determines how
15 healthy that litter looks right at the moment I'm looking at
16 it.

17 You're going through so many mink, you've got to make
18 it through them. Then you come back through the lids that
19 are marked on concern and you go back through and
20 double-check those. Some of them are just barely having
21 their babies. They haven't even nursed yet. You don't want
22 to bother them. But that's the ones I want to go back
23 through and check. Some of them have had them for a few
24 hours and they're already nursing, they're cleaned up, they
25 look good, I don't bother them.

1 Q Sounds like a busy time of year for you?

2 A It's a very busy time.

3 Q Is this when the problem started to manifest?

4 A Yes.

5 Q You mentioned you had your son Michael call Dr. Larsen?

6 A I did.

7 Q Did you ever receive a prescription from Dr. Larsen?

8 A I let my son contact him and discuss that with
9 Dr. Larsen.

10 Q When was that?

11 A It was around the 3rd, 4th of May.

12 Q What else did you do to address the problem?

13 A Mr. Dane Dixon, he was the president of the Fur
14 Breeders at the time, I was sitting on the board with him,
15 and I asked him to come down and take a look at these mink
16 and see if he had any suggestion on it. He came down to
17 watch me mix feed to see how I was actually doing it, and we
18 went out and walked through the sheds, and he says --

19 MR. MINNOCK: Your Honor, a hearsay objection to
20 this testimony.

21 THE COURT: Well, you can cross-examine. He's
22 recounting what he heard. Overruled.

23 THE WITNESS: I was told that if it was his mink,
24 that he would be very concerned about it. He says, that's
25 not normal losses.

1 BY MR. MERCER:

2 Q Did he say anything else?

3 A He left quickly.

4 Q What do you mean he left quickly?

5 A He didn't say much, but he wanted to come down and
6 visit, and then he got in his truck and left.

7 Q Any idea why?

8 A No, but I don't even think he said bye to Michael, and
9 that's rare. He had business at home taking care of his
10 mink probably.

11 Q Did you receive a prescription for Baytril?

12 A We get prescriptions of Baytril to give shots to mink
13 every once in a while, yeah.

14 Q Did you receive one from Dr. Larsen?

15 A I'm sure we did.

16 Q Did that solve the problem?

17 A No.

18 Q When did you first suspect that the National Feeds
19 lactation crumlets could be the cause of your problems?

20 A I didn't know what was going on. Me and Kent has been
21 going to Alaska fishing for like six years in a row, and we
22 was up sitting at the airport and either him or myself had
23 heard that there was some issues in the midwest. And so as
24 we went fishing, we discussed it a little bit, and then we
25 came back and contacted National.

1 Q What conclusions did you come to with Kent Griffeth
2 during that fishing trip?

3 A Nothing.

4 Q But I was asking you when you first suspected the
5 National Feeds lactation crumlets.

6 A By the time we came back, me and Kent had a discussion
7 maybe we ought to send some in and have some tested.

8 Q Why didn't you suspect the crumlets earlier than that?

9 A Like I said, I had fed it ten years previous and it was
10 a premier product and I had nothing but excellence to say
11 about it.

12 Q When was the last time you lost mink due to bad feed?

13 A The last time I remember losing any amount of mink form
14 bad feed would be -- I believe it was either '08, '09. I
15 was short on feed that day and they sent a special little
16 truck out for me, to bring it to me and it had some botulism
17 in it.

18 Q How about before that?

19 A Never.

20 Q So other than this year, one other time?

21 A Yes.

22 Q What did you do once you suspected the lactation
23 crumlets?

24 A We had some bags off the same load and we sent some off
25 to be tested.

1 Q Who had the bags off the same load?

2 A Kent Griffeth's dad had them in a cooler up there. He
3 had one pallet of them.

4 Q What's his name?

5 A Roger Griffeth.

6 Q Griffeth?

7 A Griffeth. I think that's how you say it, yeah.

8 Q You and Kent then had that bag tested?

9 A Kent was doing a lot of research and we was talking to
10 veterinarians and we just kind of narrowed it down, hey,
11 we've got some product, let's send it off. Me and Kent
12 discussed it over lots of hours on the phone, and he picked
13 up a couple of labs to send some product to, and that's how
14 it all started. Then we just kept working from there.

15 THE COURT: You're pretty silent. Does everybody
16 hear what he has to say?

17 THE WITNESS: My throat is kind of messed up
18 from --

19 MR. MERCER: I'm almost finished.

20 THE WITNESS: Maybe this will help.

21 BY MR. MERCER:

22 Q In your 30 or 40 years in the mink ranching business,
23 how many times have you encountered mink losses like the
24 kind you had in 2010?

25 A I never have.

1 MR. MERCER: No other questions.

2 CROSS-EXAMINATION

3 BY MR. MINNOCK:

4 Q So let me start by asking you this. You talked about
5 how historically you, for your blacks, have had an average
6 of five kits per litter and for mahoganies six kits per
7 litter, correct?

8 A As you're going through counting them when they're
9 having birth, yes.

10 Q But ultimately they don't all survive?

11 A No.

12 Q Historically your ranch has never had five or six in
13 terms of the ability to survive through whelping, correct?

14 A No.

15 Q Let me help you. Part of your business is you
16 mentioned that you have a banker?

17 A Yes.

18 Q The banker is the one that kind of lends you the money
19 during the year to help you get the food and other expenses,
20 right?

21 A Yes.

22 Q And part of what you need to do is give the banker some
23 information that tells them that you are taking the money he
24 gives you and actually raising mink as opposed to going to
25 Vegas or something, right?

1 A Yes.

2 Q So you and your son periodically need to provide data
3 to him regarding your operations?

4 A Yes.

5 Q Including yearly. Why don't you take a look -- Let me
6 show you. You've got some books in front of you there. Why
7 don't you look at Exhibit No. 3, the first two pages -- the
8 last two pages of Exhibit 3.

9 A Where is that at?

10 Q Let me help you.

11 I know it's a little bit small print, but I've enlarged
12 this for the jury. There are two sheets here from your bank
13 and these indicate that the seven years -- the first page
14 indicates that during the seven years from 2001 to 2007,
15 your seven-year kits per female was 4.28 total, right? Do
16 you see the line that I'm -- you're welcome to --

17 A No, because this one here starts at 2004.

18 Q That may be the females. Kits per female here
19 indicates that from 2001 to 2007, you averaged 4.28, right?
20 Do you see this line here? It's about the third line down
21 in the middle section, mink operations?

22 A You better come and show me that again.

23 Q I've got to keep my voice up for the court reporter, so
24 I'm not yelling at you, but there, this line, kits per
25 female, the average over that seven years was 4.28, right?

1 A Okay. Kit female.

2 Q Kit per female 4.28, right?

3 A I see a 353.

4 Q Well, you are looking at the first year. If you look
5 over at the last column, it says seven-year averages, 4.26,
6 right?

7 A Okay.

8 Q Then if you look at the next page, which is the one you
9 were looking at that we looked at --

10 A Previous?

11 Q That started at 2004, your kit average for that seven
12 years was approximately 4.20, right?

13 A I believe it was better than that.

14 Q But this is -- at least the information your bank has
15 is that you were at 4.20?

16 A Okay.

17 Q Now let's talk about the dates that the mink began
18 eating the lactation crumlets and ended eating the lactation
19 crumlets. Do you remember when I took your deposition? At
20 that time did you not tell me --

21 THE COURT: If you're going to refer to the
22 deposition, counselor, you should show him the deposition
23 and deal with specifics.

24 You are certainly willing to publish it.

25 MR. MINNOCK: Can I publish this, Your Honor?

1 BY MR. MINNOCK:

2 Q Do you remember I took your deposition some time ago?

3 A Yes.

4 Q And during that deposition -- if you want to look at
5 page 44 -- I asked you when you started feeding the
6 lactation crumlets.

7 THE COURT: What line?

8 MR. MINNOCK: Lines four through ten.

9 BY MR. MINNOCK:

10 Q Do you see that?

11 THE COURT: The practice is call his attention to
12 that and then put your question and let him respond as he
13 responded then.

14 BY MR. MINNOCK:

15 Q Do you remember in that deposition I asked you, when
16 did you start feeding the National Feeds lactation crumlets
17 in 2010, and you said, I believe it was the 28th. Does that
18 refresh your recollection as to when you started feeding the
19 lactation crumlets?

20 A Yeah. You asked me and I didn't have anything in front
21 of me and, like I say, yeah, I believe I said that.

22 Q Do you believe it was the 28th?

23 A I believe it's the 25th is when I started feeding it.

24 Q You believe it was the 25th now?

25 A Because it was on a Sunday that I started feeding it.

1 Q Then you continued to feed it through June the 7th to
2 the 10th, somewhere in that time frame?

3 A I thought I finished it up the first week of June.

4 Q On the next page of that, page 45, I asked you, and do
5 you know approximately how long that was, and you said, I
6 believe we ran out the first week or around the 7th or 10th
7 of June. So you did say the first week. So the first week,
8 the 7th to the 10th of June, correct?

9 A Yes.

10 Q Now the way you mixed it, I want to make sure we
11 understand this, and let me make sure -- I might draw this.

12 So as I understand, what you did is you got a 750 -- or
13 700- to 750-pound mixer, or is it an 800-pound mixer?

14 A It's a little under 800 pounds.

15 Q Now I think you told Mr. Hancey that you put in two
16 bags, correct? You got to the point where you were putting
17 two bags of the crumlets in?

18 A Yes.

19 Q Each of those bags of the crumlets was 50 pounds,
20 correct?

21 A Yes.

22 Q So we would have 100 pounds of crumlets, right?

23 A Yes.

24 Q And then how much water would you put in?

25 A They recommend 50 pounds of water per bag.

1 Q So you would put another hundred pounds of water?

2 A Yes.

3 Q And then the other, what would it be, 560 to 600 pounds
4 would be co-op feed?

5 A Probably around five. Let's see, probably about 540,
6 560. It depends on the amount of water that's in there.

7 Q 540 to 560. So the percentage of lactation crumlets
8 that you would have would be basically 100 divided by 740 to
9 760, right? Is that right?

10 A Now say that again.

11 Q The percentage of the total mix that would be lactation
12 crumlet would be 100 divided by 740 to 760?

13 A I would look at it as 200.

14 Q Why would you say 200?

15 A Because you've got a lot of water in there.

16 Q Well, I'm talking about the percentage of the crumlet
17 itself to the total mix.

18 A Then you have to take the moisture out of the Fur
19 Breeders feed to match it. It's like adding, let's see,
20 fractions. You've got to make the same common denominator
21 on them. Because if you're going to take the water away
22 from the National feed, then you'd have to take the water
23 away from the co-op feed to get a true balance of a mix.

24 Q To do the dry matter comparison, that's what you're
25 saying?

1 A However you want to figure it.

2 Q All right. But this is the way that you recall mixing
3 it during the time that you were mixing lactation crumlets?

4 A That's how I put it together, yes.

5 Q Now after you noticed this problem with this set of
6 mink that you've described for us, the offspring and the kit
7 breeders, the black kit breeders, you had occasion to open
8 up a few of the deceased mink yourself, correct?

9 A There wasn't nothing to open up.

10 Q Well, I think you said that you did open up some. Do
11 you remember telling me that in your deposition?

12 A If I opened them up, I opened them up and I couldn't
13 see nothing wrong with them --

14 Q That was my point.

15 A -- other than I mean there was a sick mink and they
16 died. I opened them up and I couldn't see nothing abnormal
17 from my point of view.

18 Q You didn't see any infection, and you would know how to
19 recognize that?

20 A Not necessarily.

21 Q You didn't see anything that you observed that was
22 abnormal?

23 A If I open up a female, I'm usually seeing if she's got
24 a plugged kit in the birth passage because you're trying to
25 understand why they die.

1 Q But during the course of your investigation, you didn't
2 observe any of those mink vomiting, correct?

3 A Not necessarily, but I'm going through so many of them,
4 I don't stand and look at them to see if they're vomiting.

5 Q And I understand that. I'm just asking, you didn't see
6 any actually doing any vomiting?

7 A You will see some of them that's got stuff on the
8 ground, you wonder where it comes from, whether they're
9 passing it or else it could have come out. No, as far as
10 sitting there and saying that I sat and watched one vomit,
11 no.

12 Q And you didn't see the evidence that you thought was
13 vomiting?

14 A You have a lot of questionable things at that time.

15 Q You didn't see anything that you identified as
16 diarrhea?

17 A No.

18 Q You didn't see any evidence of cannibalism?

19 A Not at that time, no.

20 Q In fact, not at all during 2010?

21 A Yeah, you have cannibalism in 2010.

22 Q Well, you had cannibalism amongst your herd as an
23 entirety, correct?

24 A Say that question again.

25 Q You had cannibalism throughout your herd, correct? You

1 periodically will always have some cannibalism?

2 A Yeah, that's true.

3 Q Now you talked about these cards that you keep, that
4 you go through and you actually keep track of each mink and
5 how many mink kits it whelped, right, on a card?

6 A Well, when I inspect the mink and their first litters,
7 I'm getting an estimate count. When we go through at our
8 three-week count, it is a very precise count.

9 Q Exactly, but you write those down on the kit card,
10 right, on the breeder card?

11 A It's either on the breeder card or on a card that we
12 staple on the side of the box for that specific female in
13 that box.

14 Q The reason you do that is so down in December when
15 you're getting ready to pick your breeders to keep for next
16 year, you know how that particular female did this year?

17 A That's part of the reason. The other part is how we
18 feed them.

19 Q Now in this case none of those breeder cards from 2010
20 have been kept, correct?

21 A I'm not sure if we've got some in hand or not right
22 now.

23 Q But we don't have any in evidence, correct? Well, you
24 haven't given them to your counsel?

25 A I haven't seen them here, no.

1 Q Those would be the ones that would tell us with respect
2 to each individual mink how they've done?

3 A Yes.

4 Q And specifically you talked about how on your Cedar
5 Valley operation that you felt that they generated more than
6 six kits per litter during that year?

7 A I believe I said six or right around there.

8 Q But there's no writing or documentation that confirms
9 that that you have been able to produce, right?

10 A On the boxes all through Cedar Valley, as we transfer
11 over a thousand mink a day out there, we don't move an
12 individual card with those mink. We move them in years and
13 we move them in dates of bred as we move them out. My son
14 hauls them out there. And then on those rows, we date them
15 and every one of them boxes have a card on it and I keep
16 data on there. And those we move by sheds because we have
17 so many mink.

18 Q But all of those cards that would allow this jury to
19 look at a particular row of mink and say this black kit
20 breeder only had two kits instead of six kits, those have
21 all been destroyed?

22 A We throw those away after we've weaned the kits at five
23 weeks and the mothers are selected to go in their pens to be
24 kept for the following year. All mink to be pelted will
25 have their cards pulled down and lined up in a specific shed

1 on a specific row with data on it that these are below
2 average kit litters and that they are to be pelted.

3 Q So all of the cards for the mink that are the subject
4 of this case, those are all gone?

5 A Other than the mink that met the standards of breeding
6 of the five average, they would be in the row with their
7 cards.

8 Q Now let's talk about Dr. Larsen. He is your
9 veterinarian, correct?

10 A He used to be my veterinarian.

11 Q He's an older gentleman?

12 A Yes, he is.

13 Q During 2010, he was your veterinarian?

14 A Yes. He would stand in for a veterinarian that left.

15 Q He was fairly responsive to you when you needed him?

16 A Over the phone, yes.

17 Q And in terms of following up on your mink?

18 A Yes, but not always at the ranch.

19 Q Well, let me show you what I'm talking about. Take a
20 look at Exhibits 32 and 33 in there.

21 A It's that the numbers on the --

22 Q Yeah, the tab numbers.

23 So these are the records that your counsel produced to
24 us from Dr. Larsen. Do you recognize these?

25 A No. Actually no.

1 Q You don't know if you have seen these before or not?

2 A No. Most of that information was through telephone
3 with him.

4 Q So there's various references to you --

5 THE COURT: He said he didn't recognize them. I
6 suppose you need some kind of -- well, you have a
7 stipulation, but --

8 MR. MINNOCK: Yeah, these are already admitted.

9 THE COURT: It's stipulated in.

10 MR. MERCER: I still object to the witness
11 answering, Your Honor, on foundation.

12 THE COURT: I'm sorry?

13 MR. MERCER: Objection on foundation and answering
14 the question on this document.

15 THE COURT: It may or may not be stipulated in,
16 then.

17 MR. MINNOCK: Well, the exhibits are stipulated
18 in. I think your concern is can he talk about what's in
19 these records. Let me ask it a different way and see if
20 this will help.

21 BY MR. MINNOCK:

22 Q There's various entries on here, for instance, May 1st
23 of 2008, where it says drove to co-op to necropsy 11 mink of
24 Keith Jonsson's. Send samples to Utah State Lab.

25 Do you know why you would have called Dr. Larsen on

1 that occasion?

2 A I would -- normally the way it works is my guys are
3 feeding the mink and they see dead ones, and if there's an
4 abnormal amount for that day, I would usually wait until the
5 second day and see if we had a problem. Then I would have
6 Michael, my son, call the vet and see if he can meet with
7 him.

8 Q So how many mink is, quote, abnormal in a day?

9 A It depends what time of year.

10 Q Let's talk about during this period, May 1st. This is
11 during your whelping period, correct?

12 A Yes.

13 MR. MERCER: Objection on relevance. This is
14 2008.

15 THE COURT: Is it 2008?

16 MR. MINNOCK: This is 2008.

17 THE COURT: Sustained.

18 MR. MINNOCK: Well, let's --

19 THE COURT: We're not going to talk about it.
20 It's sustained.

21 MR. MINNOCK: No. No. I'm asking about 2010.

22 THE COURT: I'm sorry?

23 MR. MINNOCK: I'm going to ask him about 2010.

24 THE COURT: Well, take the exhibit down.

25 Now you're welcome to ask him about 2010.

1 BY MR. MINNOCK:

2 Q What would be an above average loss for 2010, daily
3 mink loss?

4 A I believe you need to be a little more specific on
5 that. You've got kits, you've got females, you have females
6 at the time giving birth. It's a specific time if you're
7 going to ask me a specific day of loss.

8 Q All right. Let's talk about during the lactation
9 period. What would be an abnormal number of losses?

10 A In Lehi, if I lost over -- after they had whelped, if I
11 lost two in a day, I would be concerned. If I lost four in
12 a day, I would be really concerned.

13 Q Were you concerned in April and May of 2010?

14 A Yes, I was.

15 Q You looked there at Exhibit No. 33. The top is
16 Dr. Larsen's record. You see there is no record for any
17 visit during April, May, June or July of 2010, right?

18 MR. MERCER: Objection, foundation. This is
19 Dr. Larsen's record.

20 MR. MINNOCK: I'm asking whether the document
21 shows if there was any visit there.

22 THE COURT: I suppose the document speaks for
23 itself, counselor.

24 BY MR. MINNOCK:

25 Q Let me ask it to you this way. Do you have any record

1 of a visit from Dr. Larsen during April, May, June, July or
2 August of 2010?

3 A In August I believe he came out and visited me.

4 Q But prior to you that you have no record of any visit
5 by him?

6 A Not unless he came by just as a courtesy ranch visit
7 while he was in the area.

8 Q Now the time he came back in August -- that he came by
9 in August, it was because you had several mink dying,
10 correct?

11 A We had some mink dying, yes.

12 Q You asked Dr. Johnson to send them in for necropsies,
13 right?

14 A It is Dr. Larsen. Dr. Larsen is our nutritionist.

15 Q I'm sorry. You're right. Dr. Larsen, you asked him to
16 send some in for necropsy?

17 A Actually what I did is I had him come out and visit my
18 Cedar Valley ranch where we was losing them. And by
19 visually inspecting them, he says, it looks like you've got
20 some viral enteritis.

21 Q So this is Cedar Valley, not Lehi?

22 A That's true.

23 Q So the only necropsies that were done in 2010 were from
24 the Cedar Valley ranch, right?

25 A I believe so, yes. There could have been some, but

1 most of them in August was from Cedar Valley, yes.

2 Q Now you have talked about the losses that you've
3 alleged to suffer, and let me make sure I understand what
4 you're telling me with respect to black mink. You're
5 telling me two mahoganies can make a black?

6 A No. I'm telling you two mahoganies can make a
7 mahogany.

8 Q Can two blacks make a mahogany?

9 A Two blacks genetically makes a black, but it's not up
10 to me to determine that when it goes to auction to be
11 graded.

12 Q So is that true of mahoganies as well? In other words,
13 can two mahoganies make a mink that may be graded as a
14 black?

15 A Normally no.

16 Q So the issue that we would have would be that some mink
17 that you would consider to be offspring of blacks or that
18 you know are offsprings of blacks are being graded as
19 mahoganies?

20 A They would have to have some that does because when the
21 paperwork comes back from the auction, I had more mahoganies
22 than I sent in and less blacks, yes.

23 Q So you were here during opening statements and you saw
24 Mr. Mitchell go through the report from Dr. Roberts. Have
25 you ever reviewed the report of Dr. Roberts?

1 A Yeah, but I got to tell you I don't understand it that
2 good.

3 Q Let me ask you this question and you can tell me
4 whether you agree or disagree with what his conclusion was.

5 His conclusion on this chart is that in 2007, you have
6 3.2 black kits per litter. The next year 3.21. The next
7 year 2.62. The next year 2.75. Then the year we're talking
8 about, 3.72. Do you believe those are accurate numbers?

9 A Are they kit litters or is it ones sold at market?

10 Q Kits per litter.

11 A I didn't put that data together. We sent the data in.
12 I know I've averaged higher than that.

13 Q That year -- you mean in the prior years?

14 A I would be out of business if I had that constantly.

15 Q If you had the earlier years?

16 A If I didn't get better production than what you just
17 said, across my ranch, I would be out of business, or not
18 profitable enough to stay in.

19 Q Would you agree that the kits -- the black kits per
20 litter in 2010 that made the 2011 crop was, in fact, your
21 best year in five years?

22 A The old black females produced normally. It was in the
23 kits that was way off.

24 Q But as a total, do you believe that your black -- your
25 total black herd had its highest year in five years?

1 A No.

2 THE COURT: Why don't we give the jury and the
3 court reporter a ten-minute break.

4 Why don't I give you a ten-minute recess, folks.
5 Remember what I told you. You may be excused for ten
6 minutes.

7 (Jury excused)

8 THE COURT: Ten minutes.

9 MR. MINNOCK: Thank you.

10 (Recess)

11 (Jury present)

12 THE COURT: We're all here. I'll note for the
13 record the jury is present, counsel and the parties.

14 You may proceed.

15 MR. MINNOCK: Thank you, Your Honor.

16 BY MR. MINNOCK:

17 Q Just a few more questions, Mr. Jonsson. Thank you.

18 You talked earlier with Mr. Mercer about the six
19 pallets that were needed to fix the truck -- or to fill the
20 truck. That was actually the truck that Mr. Griffeth was
21 trying to fill, right?

22 A As a combined effort, we just ordered the truck to fill
23 it, yes.

24 Q Now in addition to your pelt sales, oftentimes you will
25 sell mink live, correct?

1 A Yes.

2 Q In 2010, you sold a considerable number of mink live,
3 correct?

4 A Yes, I did.

5 Q I think that the records reflect, and you are welcome
6 to refer to them, about 5500 live mink. Do you remember
7 that?

8 A That sounds about right.

9 Q And were all of those mahoganies?

10 A Yes, they were.

11 Q We talked about the black mink and you talked with
12 Mr. Mercer at some depth about the problems that you saw
13 with the black mink. You didn't notice any problems with
14 your mahogany mink, correct, on either ranch?

15 A In Cedar Valley there was very few issues. On the
16 mahoganies in town, the later bred ones -- you know, as
17 you're going through thousands of mink -- you try to
18 remember the good, but it's always the bad that you
19 remember. As you go through, you're trying to just make it
20 through them so fast, you mark a few litters that's got a
21 question on it and you go through, and there was issues on
22 anything that was bred after a certain date.

23 Q But when I took your deposition you thought that that
24 was limited to this --

25 THE COURT: If you've got a deposition, let's be

1 specific, refer to the deposition and call his attention to
2 page and line.

3 BY MR. MINNOCK:

4 Q Let's go to page 80 of your deposition, lines eight
5 through 21.

6 THE COURT: Usually it's were these questions
7 given and were these answers given, or were these questions
8 put and were these answers given.

9 BY MR. MINNOCK:

10 Q I asked you, so let me make sure I understand this,
11 then. First of all, you talked about darks. Did you have a
12 problem with the mahoganies at all? And your answer was,
13 no, they was all older and they was bred earlier. Was that
14 your answer?

15 A The females were all older and bred earlier so they
16 would have whelped earlier, except for the later producing
17 ones.

18 Q But at least at the time I took your deposition, your
19 recollection was that all the mahoganies had already
20 whelped?

21 A Could have been, yep.

22 Q You talked earlier that it takes about 110 pounds of
23 feed for a mink, is that correct, for a year?

24 A 110, 120 pounds, depends if you raise mahoganies or
25 darks. Right now it takes about 135 pounds to produce a

1 mink.

2 Q Is that because you've switched to more mahoganies?

3 A Not necessarily. It's feed and grain. We're feeding
4 more so now.

5 Q During 2009 and 2010, would the level of feed have been
6 approximately the same?

7 A Ask that question again.

8 Q During 2009 and 2010, were your mink eating about the
9 same amount, 110 pounds?

10 A Between 110 and 120. I think it comes out about 118
11 actually.

12 Q That would be true in 2009 as well?

13 A I think in 2009 I produced a mink for like 108 pounds.

14 Q Finally, one of the costs that you have to account for
15 is something called a pelting cost, and let me make sure I
16 understand what a pelting cost is.

17 You actually kill the mink on your farm, correct?

18 A Yeah, we harvest them on our farm.

19 Q You harvest them on the farm. But then between the
20 time that they are harvested and the time that they are sold
21 at auction, there is a process in there of processing,
22 correct?

23 A Yes, there is.

24 Q Tell us what's involved in processing.

25 A At the time I skin our animals on our place, or harvest

1 them, we pick out all the damaged ones and send the rest off
2 to processors to be processed, which is trimming the fat off
3 and stretching and drying them to get them ready for market.

4 Q What was the approximate price per mink to do that back
5 in 2010?

6 A I believe it was 240 to process them and a dime to put
7 them in a box.

8 Q So about 250?

9 A 250, yes.

10 Q Finally, you talked about -- two final things. You
11 talked about how you had certain mink that you froze. Do
12 you remember that testimony?

13 A Yes, I do.

14 Q Those would be mink that had died during the year and
15 you froze them?

16 A We freeze all the mink because anything that's in the
17 summer, we freeze it so it don't spoil, all the way through
18 until fall. We freeze everything.

19 Q So these mink, would that include -- you said there
20 were 1500 mink or so that died between June and November.
21 Would those mink have been frozen?

22 A A lot of the mink through that time frame, yes.

23 Q Then those mink would be shipped to market?

24 A Yes.

25 Q Now, finally, if you'll look at Exhibit No. 9 in the

1 exhibit book there. It's probably not in that one. It's in
2 this one. This is the lactation crumlet tag that came on
3 each bag of feed, correct?

4 A It looks like it, yes.

5 Q And you recall this because this was something that you
6 produced as part of this litigation; is that right?

7 A I guess that's where it came from, yeah.

8 Q You would have had occasion to read through this when
9 the feed came?

10 A When the feed came, all I done is look at the fat
11 content actually -- the protein and the fat content when I
12 looked at it, because I wanted to match it with the co-op
13 feed.

14 Q So you would have picked up a bag and looked at this
15 tag, or at least the fat content of the tag?

16 A Yep.

17 Q It was available for you to look at?

18 A Yep.

19 MR. MINNOCK: Thank you, sir. That's all the
20 questions I have for you at this time.

21 CROSS-EXAMINATION

22 BY MR. MITCHELL:

23 Q Mr. Jonsson, let's talk about the inclusion rate of the
24 lactation crumlets as fed to your mink.

25 A What was that again?

1 Q Let's talk about the inclusion rates for the crumlets
2 as fed to your mink. Do you know what I mean by that?

3 A No.

4 Q In other words, the percentage of crumlets in the mixed
5 ration that you folks prepared and fed to your mink.

6 A Okay.

7 Q Now you've testified previously, and if we need to take
8 a look at it we can, but that your mixer held anywhere from
9 700 to 750 pounds?

10 A I believe that's where it's at. I've actually never
11 weighed it, but I know it's no more than that because of the
12 feed tank on the feed machine.

13 Q Let's assume the greatest concentration possible based
14 on that 700-pound capacity and let's assume that there is
15 100 pounds of crumlets in that 700 pounds of feed, because
16 we talked about two 50-pound sacks get added to each batch
17 that you mix up, right?

18 A Say that again.

19 Q We've talked about two 50-pound sacks being added to
20 each batch of feed that you mix up?

21 A Yes.

22 Q 100 pounds total?

23 A Yes.

24 Q 100 pounds of that 700-pound batch works out to
25 14.2-percent inclusion rate for the crumlets as fed to your

1 mink?

2 A You didn't allow for the water of National Feeds. So
3 it's 200 pounds into 760 pounds.

4 Q We're talking about a 700-pound batch of feed. The
5 mixer holds 700 pounds total?

6 A Yes, it does.

7 Q Wet feed, water and crumlets, 700 pounds total?

8 A 700 and about 40 to 60, yeah.

9 Q But for purposes of looking at what the greatest
10 concentration is that you folks mix up, we're going to
11 assume 700 pounds.

12 A Okay.

13 Q Total, wet feed, water, crumlets.

14 A Yes.

15 Q 100 pounds of that works out to 14.2 percent, correct?

16 A I calculated it at 27 percent.

17 Q So I brought a calculator.

18 A Okay.

19 Q If you would like to do the math. I don't expect you
20 to take my word for it. If you would, divide 100 by 700,
21 please.

22 A How come I keep going back to 100 into 700? The mix
23 is --

24 Q Mr. Jonsson, please, divide 100 by 700.

25 A So 100 into 700 is what you want?

1 Q 700 into 100.

2 A 700.

3 Q So 100 divided by 700.

4 A I got it -- I think I done it wrong. Let's try this
5 again.

6 Q 100 divided by 700 gives you .142, or 14.2 percent?

7 A That's right. But you're missing the water.

8 Q We've got a 700-pound batch of feed --

9 A That's true.

10 Q -- wet feed, water, crumlets?

11 A That's right.

12 Q 100 pounds of that is crumlets?

13 A But you've got to allow for the water with the
14 crumlets.

15 Q We've allowed for the water. Part of that 700 pounds
16 is the water. The water, wet feed, crumlets. 100 pounds of
17 that is crumlets. 100 divided by 700 is 14.2 percent.

18 A That's like adding fractions of one-eighth and
19 one-quarter together and saying you can add it. You've got
20 to put in the same common denominator to figure mix.

21 THE COURT: What's your next question, counselor?

22 MR. MITCHELL: Move to strike.

23 THE COURT: You've done what you've done. Put
24 your next question.

25

1 BY MR. MITCHELL:

2 Q So let's take this one step further. Let's look at the
3 inclusion rate of 12,000 pounds of feed from April 27th
4 through June 7th. I know you've said here that it was
5 April 25th, but in your deposition you said April 28th, and
6 so I picked the closest date to that 28th --

7 THE COURT: Why don't you just put your question.

8 BY MR. MITCHELL:

9 Q Would you take a look at Exhibit No. 4. There's a
10 bunch of pages in there, so I'm going to refer you to some
11 specific page numbers in there. Exhibit No. 4 --

12 A Are these in this book?

13 Q Yes. Exhibit No. 4.

14 A What page?

15 Q Well, there's going to be several of them.

16 A But the last one here is six.

17 Q Exhibit 4 is going to be in that other binder.

18 A All right. Okay.

19 Q You with me on Exhibit 4?

20 A Yep.

21 Q So Exhibit 4 are your feed statements along with
22 Michael's feed statements for your ranches at Lehi and Cedar
23 Valley, and I specifically would like you to take a look at
24 pages 781 through 783.

25 A Where's your pages marked at?

1 Okay. Let me get this figured out. I've never done
2 this before.

3 Q I'm going to throw you for a bigger loop here in a
4 second once you get those pages.

5 A 781?

6 Q 781 to 783. You've got those?

7 A Yep.

8 Q Then towards -- I think they're going to be the last
9 two pages in that exhibit.

10 MR. MERCER: Objection. We're looking at
11 June 2009. Irrelevant.

12 MR. MITCHELL: I haven't even asked a question
13 yet, Your Honor. How can they know if it's relevant?

14 THE COURT: Well, you've called his attention to
15 the two pages. If you've got a specific question, put your
16 question.

17 MR. MITCHELL: I haven't finished -- there are a
18 couple of other pages that need to be looked at before my
19 question, Your Honor.

20 THE COURT: Which ones are they?

21 MR. MITCHELL: The last two pages in Exhibit
22 No. 4. The numbers are going to be PL000185 through -- I
23 believe it's going to end up being 184 and 183 as well.

24 Yes.

25 THE COURT: They are not the last two pages, but

1 now that you've identified them, okay, 183, 184.

2 MR. MITCHELL: Yes.

3 THE WITNESS: Okay.

4 BY MR. MITCHELL:

5 Q So we should have in those six pages the feed
6 statements for you and Michael at Lehi for April through
7 June of 2009, the last year before you fed the lactation
8 crumlets, correct?

9 THE COURT: These are statements from Fur
10 Breeders?

11 MR. MITCHELL: Yes.

12 THE WITNESS: June, May, April and March is what
13 you're talking?

14 BY MR. MITCHELL:

15 Q April through June are the three months that I'm
16 looking at. March happens to be on one side of -- on one
17 side of the April statement. But the months I'm focused on
18 are April through June.

19 A On mine it's on the next page.

20 Q Yours may not be -- yours may not be double sided,
21 then.

22 A They are not.

23 Q So we should have April through June 2009 for you and
24 Michael, your feed statements in those pages. Okay.

25

1 If we look at the period April 27th through June 7th,
2 the same period that you fed the lactation crumlets in 2010,
3 by my calculations, and you're welcome to check them if you
4 would like, you fed 94,700 pounds of wet feed that year?

5 MR. MERCER: Objection, relevance, and facts not
6 in evidence.

7 THE COURT: They say what they say. They're in
8 evidence by agreement.

9 MR. MITCHELL: Correct.

10 THE COURT: Now do you have a specific question
11 for him, calling his attention to a particular provision on
12 a particular page identified by number so that the record is
13 clear as to what you are asking him?

14 BY MR. MITCHELL:

15 Q I am asking --

16 THE COURT: What page are you looking at?

17 MR. MITCHELL: I'm looking at -- from Exhibit 4, I
18 am looking at pages PL000185 --

19 THE COURT: Let's stop right there. Do you have a
20 question in reference to 185?

21 MR. MITCHELL: I have a question in reference to
22 the aggregate of these pages, Your Honor.

23 THE COURT: Tell me your next page, the number on
24 your next page.

25 MR. MITCHELL: 184 and 183.

1 THE COURT: The next one.

2 MR. MITCHELL: FBAC0781, 782 and 783.

3 THE COURT: Now are you calling his attention to
4 any specific item on that page?

5 MR. MITCHELL: I am calling his attention to the
6 dates April 27th through June 7th.

7 THE COURT: The question that you're putting to
8 him is what, then?

9 MR. MITCHELL: The sum total of the feed delivered
10 in that range of dates, Your Honor.

11 THE COURT: By Fur Breeders?

12 MR. MITCHELL: Correct.

13 THE COURT: Is how much?

14 MR. MITCHELL: 94,700 pounds.

15 THE COURT: Where do we find that?

16 MR. MITCHELL: We find that by adding the entries
17 for April 27th through June 10th on each of these pages.

18 THE COURT: All right. And you say you've added
19 that?

20 MR. MITCHELL: Correct.

21 THE COURT: And you want him to add that?

22 MR. MITCHELL: I am willing to have him add that.
23 I'm willing to accept his acknowledgment that my mathematics
24 are correct.

25 THE COURT: So the question is what's the

1 aggregation?

2 MR. MITCHELL: Correct.

3 THE COURT: Have that load in your computer and he
4 can add it up.

5 MR. MERCER: Objection, Your Honor. The document
6 speaks for itself.

7 THE COURT: You acknowledge the sum that he
8 suggests is correct?

9 MR. MERCER: I don't acknowledge the sum. I think
10 it's --

11 THE COURT: Well, it's the sum that he's talking
12 about. Add it up.

13 THE WITNESS: He was just talking a minute ago for
14 one, two, three, and before he was talking three, four and
15 five for April, May and June. And the only thing I see on
16 the bottom of this is it says year to date.

17 THE COURT: He just wants you to add up the
18 numbers. Add up the numbers.

19 THE WITNESS: Am I supposed to add up the numbers
20 down through all these columns and calculate all the feed?

21 THE COURT: He simply added up some numbers. He
22 wants you to add them up so you can verify his addition is
23 correct.

24 THE WITNESS: I need to know what I'm supposed to
25 add.

1 THE COURT: Come show him the numbers you want
2 added up.

3 THE WITNESS: I've got to tell you, my eyes are
4 really bad.

5 This is really good.

6 Which pages? You keep talking one, two and three,
7 and actually when you first got me, it was three, four and
8 five, so I'm trying to figure out which one you want.

9 BY MR. MITCHELL:

10 Q So what we're looking at are April 2009, which is
11 PL000185, May of 2009, which is 184, and June of 2009, which
12 is 183. Those were all for Michael. Then we're looking at
13 FBAC0781.

14 A Okay. That's the three before. We have a tally at the
15 bottom of each one of them.

16 Q 0782 and 0783, and they do. The problem is the only
17 complete month that we have is May because you only fed the
18 lactation crumlets for part of April and part of June. You
19 can see it has the daily --

20 A Basically it was all of May and June. It's the last
21 few days of April.

22 Q So what we've done is calculated from April 27th
23 through June 7th. And between you and Michael -- now do you
24 see where I'm talking about here?

25 A Yeah, total amounts.

1 Q The 27th, so --

2 A This is pounds fed.

3 Q Pounds fed.

4 A This is on a 15-day statement, and then you go down to
5 here.

6 Q Well, for example, this is September. So the wrong
7 month, but --

8 A So how do you go to September?

9 Q We're not. This is why we've got to stick with the
10 numbers.

11 A That's August, and that was 2001 -- or 81.

12 Q If we start back here in April.

13 A April, May and June. So why are these different under
14 mine?

15 Q I don't know why. You marked them. So we're looking
16 at April, May and June for Michael. For June, we're only
17 going to add up to the 7th. So 500 pounds a day up through
18 the 7th.

19 A So that's 3,500 pounds.

20 Q We've got all of April.

21 A Which would be this tally and this tally, right?

22 Q Which would be a monthly total of 14,900 pounds.

23 Then from April 27th through the end of the month.

24 A Okay.

25 Q Then we'll do the same thing for your sheets?

1 A No. You've got to understand, the feed on Michael's
2 feed account and my feed account all comes to my mink ranch
3 combined. Separate mink don't get fed separate feed.

4 Q That's why we're combining them all together.

5 When you combine your entries with Michael's entries
6 for that period in 2009, we find that there were
7 94,700 pounds of feed delivered, correct?

8 A I see this states Lehi on them. I never seen if the
9 other ones stated Cedar Valley. So I don't know if it's a
10 combined --

11 Q Take a look at the pages that I showed you.

12 A I did.

13 Q And it says --

14 A But these are the first time I'm going over these
15 and --

16 Q They don't say Cedar Valley or Cedar Fort on them,
17 correct?

18 A No.

19 Q The feed that gets delivered to Cedar Valley or Cedar
20 Fort says Cedar Fort on it?

21 A I haven't even actually seen those. Like I say, my boy
22 does the paperwork and I run the ranch.

23 Q Let's assume that what I've said is true.

24 A Okay.

25 Q Now if we look at those pages and add those all up, we

1 get 94,700 pounds of feed delivered between you and Michael
2 to Lehi?

3 A Over April, May and June?

4 Q April 27th --

5 A The dates you went over, yes.

6 Q So if we look at the --

7 MR. MERCER: Same objection, Your Honor. I renew
8 my objection, facts not in evidence. The witness testified
9 he began feeding April 25, not April 27.

10 THE COURT: His question was if you add those up,
11 what do you get. You've acknowledged what the addition is.
12 There it is. The question as to whether it's of importance
13 is a different question that you fellows can argue down the
14 road. It's simply an addition question at this point.

15 Put your next question.

16 MR. MITCHELL: Thank you, Judge.

17 BY MR. MITCHELL:

18 Q Let's look at the same period for 2010, and
19 specifically documents FBAC00757 through 759, and FB --

20 THE COURT: Is that part of Exhibit 4?

21 MR. MITCHELL: It is.

22 BY MR. MITCHELL:

23 Q And documents FBAC833 through 835.

24 A Give me them pages again.

25 Q 757 through 759.

1 A 757 through 759?

2 Q Yes.

3 THE COURT: Your question is?

4 THE WITNESS: I can't even find those pages
5 actually. I'm in the ones that he's telling me, and then I
6 go back and they are not the other ones. Then you go up to
7 845s, not seven whatever.

8 So what's that page number again?

9 BY MR. MITCHELL:

10 Q 757 through 759 and 833 through 835. I can show you --

11 A Okay. They're clear back in the front. Okay.

12 Q Did you find both ranges?

13 A We're getting there.

14 Okay.

15 Q You've got both sets?

16 A Yep. So like the FBAC0757 through 759.

17 Q And 833 through 835.

18 A Let's go on the first ones first. I can't sit there
19 and flop and look at both of them at the same time.

20 Q I'm happy to provide my copies to make it easier.

21 A Well, you're trying to delve through the book that's
22 got several pages and trying to look at both at the same
23 time. All there are are feed statements.

24 MR. MERCER: No objection.

25 MR. MITCHELL: I've got both sets there for you.

1 THE WITNESS: That makes it easier.

2 BY MR. MITCHELL:

3 Q Looking at that same date range of April 27 through
4 June 7th, by my calculations, you folks purchased and had
5 delivered 94,700 pounds -- I'm sorry, 98,400 pounds of wet
6 feed during the same period in 2010. Do you have any reason
7 to disagree with that number?

8 A Not if it's the feed statements out of the co-op. I
9 never assembled these. I ordered the feed daily, how we
10 have to feed our mink. All these calculations I didn't do.

11 Q So let's see what that inclusion rate as fed to your
12 mink works out to be in 2010. Is that calculator still up?

13 A Yes.

14 Q So in 2010, April 27th through June 7th, 98,400 pounds
15 of feed. So let's start off with 98,400.

16 A 98,000 what?

17 Q 98,400.

18 A How do you go back on this thing? I don't do this.

19 How do you --

20 Q Just hit clear. 98,400.

21 A Okay. 98,400.

22 Q During this same time period, you added in 12,000
23 pounds of crumlets, for a total amount of feed fed of what?
24 What does it calculate out to?

25 A Well, I can tell you right now you're off on your

1 mathematics again because you've got to add --

2 Q What is 98,400 plus 12,000, Mr. Jonsson?

3 A Divided by 12,000.

4 Q Plus 12,000.

5 A It says 110,400.

6 Q 110,400. And then you've also indicated that for every
7 hundred pounds of crumlets, you add in 100 pounds of water.
8 So for 12,000 pounds of crumlets, we add in another 12,000
9 pounds of water, working out to 122,400 pounds as fed to
10 your mink?

11 A Okay.

12 Q Now let's find out what the inclusion rate was, and we
13 do that by dividing 12,000 by 122,400. What does that
14 percentage work out to be? Go ahead and plug it in. 12,000
15 divided by 122,400.

16 A On here, if I did it right, it's .09.

17 Q Nine percent as fed to your mink?

18 A As I done it, it's .09. So either I done it wrong --
19 it didn't come out nine percent.

20 Q In 2011, you folks sold 28,782 pelts at auction,
21 correct?

22 A Okay.

23 Q You sold 36,520 animals total, the difference between
24 this number and this number for live breeders that you sold
25 that year, correct?

1 A Which year is this?

2 Q 2011. So the 2010 crop that was sold in 2011.

3 A The mink produced in 2010, you're saying there's 28,000
4 mink sold?

5 Q This is what your expert has said was the number of
6 pelts that were sold in 2011. I believe he got that from
7 your auction records. This is the number that Michael has
8 said you folks sold total, pelts and live sales. It's
9 Exhibit 34, if you want to --

10 A Okay. I can't see that far and I'm just going by what
11 you're saying.

12 Q Michael's letter is Exhibit No. 34.

13 A Okay.

14 Q The difference between the pelt sales and the total
15 sales for 2011 is going to be the live sales, correct? If
16 we subtract pelt sales from the total sales, that gives us
17 the number of live sales?

18 A Should do.

19 Q Would you go ahead and do that for me, then.

20 A Is that the 29,861, is that what you're saying?

21 Q No. We've got 2011, 36,520.

22 A So you're talking the pelts that's produced in 2010 is
23 the 36,520.

24 Q Pelts and live sales together produced 36,520 sales.

25 A Okay.

1 Q Minus the pelts sold, 28,782. What's the difference
2 between those two numbers?

3 A What's that number again?

4 Q 28,782?

5 A 7,738.

6 Q 7,738 live sales in 2011.

7 Let's do the same math for 2012. 34,327 total sales.

8 A 34,000?

9 Q 327. Minus 31,421.

10 A 2906.

11 Q 2906. And when the two are added together, I believe
12 it comes up to 10,644. You can check it if you would like.

13 A From the year before and then this one?

14 Q Sorry?

15 A From the year before and then this one?

16 Q When those years are added together, it totals 10,644
17 total live sales.

18 A Okay.

19 Q Dr. Roberts has calculated your sales per litter
20 average -- he calls them kits per litter, but in his
21 deposition he explained he's talking about the sales per
22 litter -- for 2011 at three and a half, but he's used
23 28,782. Let's plug in 36,520. We get his math this way.

24 MR. MERCER: Objection one more time, Your Honor.
25 This is just math.

1 THE COURT: I don't know what your point is,
2 counselor, and I assume that the good doctor, whoever he may
3 be, is subject to your cross-examination.

4 MR. MITCHELL: It is, and my point, Your Honor, is
5 just to get to an accurate average. And if Mr. Jonsson
6 isn't qualified to do that, then I'm more than happy to move
7 on.

8 THE COURT: Well, he's not here as an expert.
9 He's here as a narrative witness telling his own history and
10 what he does and what he did. So let's move on.

11 BY MR. MITCHELL:

12 Q As I understand it, Mr. Jonsson, you folks had
13 purchased some breeders in 2011, 2012 and 2013, and it
14 looks -- am I to understand that correctly?

15 A We purchased some, yes.

16 Q Was that for any specific reason?

17 A As I graded my darks, I didn't like the way they
18 looked, so I purchased some to try to make up the difference
19 in quantity and quality.

20 Q So they were all darks that you purchased?

21 A Yes.

22 Q You didn't purchase any mahoganies?

23 A No.

24 Q You were also during that time period transitioning
25 from darks to mahoganies, correct? A greater percentage of

1 mahoganies in your herd than dark mink?

2 A Yes.

3 Q And were all of these live sales in 2011, 2012 and
4 2013, were they all mahoganies?

5 A I think there's a few older darks that I was going to
6 pelt that was too old and didn't produce heavy enough, but a
7 rancher wanted a few of my bloodline.

8 Q How many darks did you sell out of those 11,644 mink?

9 A I believe it was just around 100, something like that,
10 or less.

11 Q When did you sell them?

12 A I believe that was the fall of -- either the fall of
13 2010 or the fall of 2011 -- probably 2011.

14 Q And so the balance, then, were all mahoganies that you
15 sold?

16 A Yes.

17 Q You were selling those mahoganies for roughly \$100 a
18 head?

19 A I think it was a little more than that.

20 Q How much more than that?

21 A As I sold these to my friend, I sold them for pelt
22 price plus \$10 and feed cost.

23 Q So do you know what that averaged out to be?

24 A I'm not sure exactly because I sold him males and
25 females.

1 Q Were they all sold to Lyle Groves?

2 A I sold some to Lyle Groves. I sold some to Kenny
3 Jensen. I sold some to Ralph Griffeth. I sold some to
4 Roger -- or Kent Griffeth all over the last few years. I
5 think Kenny's was in 2009.

6 Q Let's take a look at Exhibit No. 6, document number
7 PL000728, and Exhibit No. 3, PL000257.

8 A The numbers again?

9 Q Exhibit No. 3 is document number 257. It's the second
10 page of that report that you were looking at earlier.

11 A Exhibit No. 3 you say?

12 Q So we're looking at Exhibit 3 right now.

13 A Which page?

14 Q PL000257.

15 I'm sorry. 256.

16 A In this book, if I'm in three and I go to five,
17 PL000254, then there's no numbers after that. So we're
18 looking at 256 right now?

19 Q We are looking at 256, specifically this number right
20 here, pelt income gross, June 30, 2010.

21 A Okay. 1,736,000.

22 Q \$682, correct.

23 A I can't read that in here, but, yeah, okay.

24 Q So let's take a look at Exhibit No. 6. Did you report
25 all of that income to the IRS, Mr. Jonsson?

1 A I turned the information over to my bookkeeper.

2 MR. MERCER: Objection, irrelevant.

3 THE COURT: Yeah. I think all of these exhibits
4 need to be examined with some degree of care. I'm going to
5 give the attorneys a chance to do that.

6 Ladies and gentlemen, as a result, we're going to
7 send you home a little bit early. Remember what I've told
8 you, don't talk to anybody about this case. Don't Tweet or
9 any of that other stuff. Come on in tomorrow at 20 minutes
10 after 9:00. We'll get started at 9:30. Remember what I've
11 told you. Appreciate your patience and I'll let you go home
12 a little bit early. See you tomorrow. Thanks so much.

13 (Jury excused)

14 THE COURT: I'm having trouble with these exhibits
15 and I'm sure the jury is having trouble with these exhibits
16 when we have something marked Exhibit 6 and it consists of a
17 whole series of tax returns, as I view them. If you're
18 interested in one specific tax return, we ought to mark that
19 and call somebody's attention to it. I look at Exhibit
20 No. 5, No. 5 is more than a thousand pages of something. If
21 you're interested in all of those pages, I would be
22 interested in you telling me why you're interested in all of
23 those pages. If we're interested in just specific items,
24 then people ought to pick them out and put them in evidence,
25 mark them.

1 What do you claim for all of that? What do you
2 claim for your stipulated Exhibit No. 5?

3 MR. MINNOCK: Five is the ALC documents, and
4 actually you're exactly right, and Mr. Hancey and I had that
5 discussion earlier today.

6 THE COURT: Well, you should have had it a few
7 days ago.

8 MR. MINNOCK: Well, we should have and I
9 apologize.

10 THE COURT: I'm going to give you a chance to sit
11 down tonight and work through those exhibits so that we can
12 make some sense out of what people are talking about.

13 This is one of my unusual adventures after sitting
14 here for more than 30 years. It's the damndest collection
15 I've ever seen, to put it mildly. So you guys work through
16 those and be prepared tomorrow when you come in to tell me
17 which ones you're serious about. For example, in your
18 choosing -- picking and choosing particular items in a very
19 large exhibit leads me to believe those are the items you
20 are interested in.

21 MR. MITCHELL: They are the items I'm interested
22 in.

23 THE COURT: But the rest of it you're not. If
24 you're not, why bother?

25 MR. MITCHELL: Fair enough.

1 THE COURT: I've got them coming back in at 9:20.
2 If you guys want to come back in, and ladies, come in at
3 9:20, I will hear from you as to what you've done in
4 reference to these exhibits. Many of these exhibits are
5 interesting, the parts that we've seen, and may have some
6 relevance. But it's a little odd to say, Judge, we've
7 stipulated these into the record but, by the way, I object
8 to it because it's not relevant. Well, if it's not
9 relevant, why are you stipulating it into the record to
10 begin with?

11 So those really involved better look at the
12 exhibits so that you're in a position to talk to me about
13 them with some degree of care. I am not being overly
14 critical. I appreciate the difficulties people have in
15 dealing with complex records. But those are things that
16 ought to be culled. So do the best you can. See you
17 tomorrow, 9:20.

18 (Whereupon, the trial was continued to Tuesday,
19 January 14, 2014 at 9:20 a.m.)
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C E R T I F I C A T E

I hereby certify that the foregoing matter is transcribed from the stenographic notes taken by me and is a true and accurate transcription of the same.

PATTI WALKER, CSR-RPR-CP DATED: 2-20-14
Official Court Reporter
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